

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

STEVEN W. KRAFCHICK,
SBI#00178856
Delaware Correctional Center
1181 Paddock Road
Smyrna, Delaware. 19977
Petitioner,

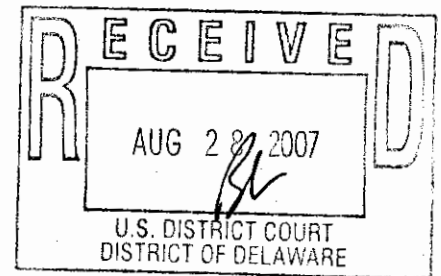
Civil Action No. 07-284-GMS

IN THE UNITED STATES DISTRICT COURT
DISTRICT DELAWARE

Vs.

THOMAS L. CARROLL (Warden)
Delaware Correctional Center
1181 Paddock Road
Smyrna, Delaware. 19977
Respondent.

THIS IS A NON-CAPITAL CASE



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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE, I.D. No. 0101010964

Plaintiff,

v. IN01-01-2351,
IN01-01-2352

STEVEN KRAFCHICK,

Defendant.

BEFORE: HONORABLE CHARLES H. TOLIVER, IV., J.

APPEARANCES:

MARSHA J. EPSTEIN, ESQ.
MARIA TERESA KNOLL, ESQ.
Deputy Attorneys General
for the StateEDWARD C. PANKOWSKI, JR., ESQ.
KATHRYN B. LUNGER, ESQ.
For the DefendantPLEA TRANSCRIPT
February 13, 2002DOMENIC M. VERECHIA, RPR
SUPERIOR COURT OFFICIAL REPORTERS
1020 King Street - Wilmington, Delaware 19801
(302) 577-2400 Ext. 416February 13, 2002
Courtroom No. 203
11:12 a.m.

PRESENT:

As noted.

MS. EPSTEIN: Good morning, Your Honor.

MR. PANKOWSKI: Good morning, Your Honor.

THE COURT: Good morning.

Can I see counsel at sidebar for a minute. Not
a problem. I just need to know something.

(Sidebar off the record.)

MS. EPSTEIN: Your Honor, this is the State of
Delaware v. Steven Krafchick, in this matter which
you're currently presiding over in superior court.He is going to be pleading guilty to murder in
the second degree, a lesser included offense of Count I:
and possession of a deadly weapon during the commission
of a felony. And the State will enter a nolle prosequi
on the remaining charges.The defense will ask for a presentence
investigation. I signed this on behalf of the State.
Mr. Pankowski signed the plea, as did Ms. Lungner, and
the defendant, Steven Krafchick.1 MR. PANKOWSKI: Your Honor, Steven Krafchick is
2 to my right.3 We had the opportunity to speak to him today.
4 This plea offer was tendered by the State of Delaware
5 this morning. It, in fact, was tendered by the defense
6 several weeks ago. He was willing to enter this plea to
7 the exact same charges, murder second degree as a lesser
8 offense and possession of a deadly weapon during the
9 commission of a felony.10 He's been advised by myself, co-counsel
11 Ms. Lungner, and Marilyn Munson. And his mother got
12 word, although not direct contact with Steven, that she
13 would advise him to enter this plea under the
14 circumstances.15 I had an opportunity for almost an hour to
16 discuss the matter with him in the jury room. He signed
17 the plea documents in my presence. He understands the
18 consequences of his plea, that the trial will cease.
19 The jury will be dismissed. He does not have the
20 opportunity or the misfortune, whichever way, of hearing
21 the jury's verdict in the nature either tomorrow or the
22 following week. So he understands that the case will
23 stop, and his sentencing will take place at the next

1 point.

2 The State wants immediate sentencing. I
3 expressed to the Court that we would like sentencing in
4 the near future after a presentence investigation is
5 conducted. I believe Title 11 would mandate in most
6 cases a presentence report. I don't know if the Court's
7 inclined to do that or not.8 But Mr. Krafchick knows for murder second he's
9 facing a mandatory ten-year sentence and a maximum up to
10 20 years; the weapons charge, the mandatory two years
11 and a maximum 20 years. So he's facing a maximum of 40
12 years incarceration. He signed the documents in my
13 presence. And I would urge the Court to accept his
14 guilty plea.15 I believe the indictment should be amended
16 accordingly to reflect the reckless killing of the
17 deceased and not the intentional killing as alleged at
18 this point.19 THE COURT: Ms. Epstein, do you want to write
20 the particular language in the indictment.

21 MS. EPSTEIN: Yes, Your Honor.

22 Mr. Krafchick, for the record, please state
23 your full name and address.

5 THE DEFENDANT: Steven W. Krafchick.
THE COURT: And your address prior to the incarceration.

THE DEFENDANT: 207 North DuPont Highway, Apartment 1.

THE COURT: How old are you, sir?

THE DEFENDANT: 37.

THE COURT: How much education do you have?

THE DEFENDANT: Eighth grade education.

THE COURT: What do you do for a living?

THE DEFENDANT: A waitress. I mean a waiter.

Sorry.

THE COURT: No problem.

Sir, it's my understanding you wish to enter a plea to two counts of criminal offenses, murder in the second degree as a lesser included of murder first degree, in Count I of the indictment, IN01-01-2351; and Count II, possession of a deadly weapon during the commission of a felony, IN01-01-2352. And that those offenses took place on January 15th, 2001, in New Castle County, State of Delaware.

Did you commit those offenses on that date, sir?

6 THE DEFENDANT: Yes, sir.
THE COURT: In my left hand I have the plea agreement. Did you review this document with your attorney, and is that your signature?

THE DEFENDANT: Yes, sir.

THE COURT: And I'm going to go over a couple of things.

In my left hand now I have the Truth in Sentencing/Guilty Plea Form.

Did you review the form and provide the information shown?

THE DEFENDANT: Yes.

THE COURT: Did you understand the constitutional rights and civil liberties you'll be giving up by entering this plea as well as the range of penalties that could be imposed up to 40 years and with a minimum of 12?

THE DEFENDANT: Yes, sir.

THE COURT: I'm going to add 12 to 40 and initial it, although you and your attorney said 40. That is the maximum. And that's what the blank says.

Do you understand that you had a right, and you're giving up by pleading guilty; you will not have a

7 trial and you waive or give up your constitutional right to be presumed innocent, to a speedy and public trial, to a trial by jury, to hear and question the witnesses against you, to present evidence in your defense, to testify or not to testify, and to appeal to a higher court? Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And is that your signature?

THE DEFENDANT: Yes, sir.

THE COURT: Sir, do you have any questions regarding either document or any other aspect of this matter?

THE DEFENDANT: No, Your Honor.

THE COURT: Is anybody forcing you to do this, sir?

THE DEFENDANT: No, sir.

THE COURT: Are you doing it of your own free will?

THE DEFENDANT: Yes, sir.

THE COURT: Have you fully discussed this matter with your attorneys and are you satisfied with their representation?

THE DEFENDANT: Yes, sir.

8 THE COURT: And, again, do you have any questions for the Court regarding any aspect of this matter?

THE DEFENDANT: Just mercy on me, sir.

THE COURT: I understand.

Have you had any drugs or alcohol within the last 48 hours?

THE DEFENDANT: No, sir.

THE COURT: Are you now or in the past two years been a patient in a mental institution or under the care of a psychologist or psychiatrist?

THE DEFENDANT: No, sir.

THE COURT: Do you understand the consequences of what you are doing?

THE DEFENDANT: Yes, sir.

THE COURT: Now, Mr. Krafchick, I'm going -- in terms of a plea itself, I know you discussed it with your attorneys and I know, indeed, according to Mr. Pankowski, you proposed it or at one point had considered this previously. And I believe your plea is a knowing and intelligent and voluntary one, given the circumstances, and I do so accept the same.

I'm going to proceed to sentencing. And,

Mr. Pankowski, and I don't want to call her by her first name, but I always forget --

MS. LUNGER: Lunger.

THE COURT: Lunger. I'm sorry.

Ms. Lunger had gone over it with you.

And I think one of the more compelling documents in this case, although I would have written it differently for the purposes of trial, was the evaluation by Dr. Much which outlined a fair amount of your social and educational history.

From that document, as I informed counsel, I got a fairly decent picture of what I thought was your history. And from this part of the trial and listening to the testimony up to today, I got a fairly decent idea of the kind of tumultuous nature of the relationship was between you and the decedent.

And I think, based upon that and based upon just general experience as a judge in this court and looking at your record here, which is consistent with the evaluation, some I guess residential domestic contact between you and your wife, and a lot of it, what I call minor offenses of the misdemeanor variety.

Is that the findings report?

MS. EPSTEIN: Yes, sir.

MR. PANKOWSKI: Your Honor, just for the record, we would oppose immediate sentencing. There were witnesses that were to be called but for the plea entered by my client. Dr. Tavani's report is before Your Honor. There would be statements made by certain civilian witnesses.

We would like the opportunity to submit those to a presentence officer to compile those in a report to present to the sentencing judge at a later date. Whether that's a week or six weeks or what, we would ask the opportunity to present those documents to enable the court to sentence this case according to a recommendation made by a presentence officer.

MS. EPSTEIN: Your Honor, I'm going to allow you to read Dr. Tavani's report. And then I'll respond to Mr. Pankowski's question.

THE COURT: What I'm going to do is I'm going to take a very brief recess.

I read Dr. Much's report. What I started to say, I found it comprehensive in its description. Although Mr. Pankowski may argue that, but you were going to exclude it. An admission into evidence at

trial before the jury is one thing; what I consider at sentencing is a horse of a different color.

I'm going to read Dr. Tavani's report because I had not seen that before because she was going to testify today. I'm going to take five minutes, ten minutes. I mean, it doesn't take me that long. Couple pages I've read so far seems to track what Dr. Much said down to the description of the colonoscopy which reversed itself.

So I think we're in a pretty good situation to proceed. And I'm 99 percent sure I'm going to go to immediate sentencing.

What I wanted to say to you, Mr. Krafchick, is, look, this was perhaps one of the more tragic cases that I've seen here. And no homicide is a good case. No homicide is not tragic. But I don't think you and your wife were bad people. Sometimes people have questionable character. You had some issues. And you had some conditions and problems that unfortunately we in society were not able to address. And that makes me feel sad, but there's not much I can do about that.

But I do think this plea will allow you very real expectations, hope of getting out in time to see --

to have life. When I say have some life, there are current guidelines. One has to serve three-quarters of any sentence imposed, total sentence imposed. But you have two children and they will ultimately, if they so desire, have children. And you'll be able to maintain contact with them, I would assume, but at some point get out. I believe the average life expectancy of the sentence won't be reduced.

But I think this is probably a reasonable, just resolution of what was and is appears to me a very tragic and unfortunate situation. And if someone had been able to stop you earlier or stop the relationship or somehow intervene, but it wasn't possible. And there is a penalty to be paid, and the law requires it because it must discourage these types of situations.

But in no way did the testimony or evidence imply that, not that it would make a difference, that your character or her character was a question as far as I'm concerned. It's just tragic and it's sad. And you'll have to live with it. And I think that's probably a far more difficult punishment than anything I can impose on you.

That's life. Your kids have to live with it.

Because they've lost a father and a mother. And your wife's mother and family has to live with it. And your mom has to live with the loss of her son. This is just a loser all the way around, including the court.

That won't do much for you, but I thought I would let you know how I saw it.

And let me read this. And I will do what I have to do. But it is with no sense of anything good that I approach this task. And no sense of anything positive that we find ourselves here. So that may not do much for you. At least I owed you that --

THE DEFENDANT: Thank you, Your Honor.

THE COURT: -- and your family, I might add.

Let me stand in recess until the call of the court. But I don't think it will be any more than ten minutes at best.

(A short recess was taken, 11:30 a.m. to 11:46 a.m.)

THE COURT: I do intend to proceed to immediate sentencing.

I read Dr. Tavani's report. And it was pretty much, not identical, but very close to in terms of the social, medical history of Dr. Much. There were a

1 waiting for his response, but in that interim I just
2 want to point out that since the Court is interested in
3 proceeding with immediate sentencing and since there are
4 family members here, they certainly have the right to
5 address the Court. I have not even asked them today to
6 address the Court.

7 THE COURT: You're right. They're allowed to.

8 MS. EPSTEIN: Would you want to hear from them
9 first, if somebody wants to speak to their feelings?

10 Because that is normally part of the presentence
11 investigation as to the defendant's version of --

12 THE COURT: They're entitled to by statute. I
13 don't think Mr. Pankowski would object to that.

14 (Pause.)

15 MS. EPSTEIN: Do you want to hear from them at
16 this point?

17 THE COURT: Yes. But the defense makes its
18 presentation.

19 MR. PANKOWSKI: Your Honor, we would also like
20 a request for the defendant's mother to say a few words
21 on his behalf.

22 THE COURT: It's not allowed by statute, but
23 I'll allow it.

14 couple of added factors in it, but they were both
extensive and comprehensive in terms of what I would
address at sentencing.

I'm not sure what else a presentence
investigation would add that I don't already know. I
know how the crime was committed. I obviously know who
committed it. I know a fair amount about the social
history of the parties, which, again, is well documented
through the defense experts. And I've had 12 years of
experience. I'm not so sure at this point a presentence
investigation would benefit or assist me in that
process.

So I'm going to proceed, as I indicated I
would.

Obviously, if there's anything that the defense
wants to add to the record at this point, they should
feel free to do so. Or alternatively, there is always
the option of examination for a motion to reduce
sentence. But I think I have a fairly comprehensive
idea what the situation is at present.

(Pause.)

MS. EPSTEIN: Your Honor, I know you just
directly asked Mr. Pankowski a question and you're

15 MS. EPSTEIN: For the record, this is Mrs.
2 Hilda Wilson. This is Dawn Krafchick's mother.

3 THE COURT: Is she speaking for the family?

4 MS. EPSTEIN: Yes, she is.

5 MS. WILSON: I just like to say that it's very
6 difficult for me, too, and these children. Before this
7 happened I've had the children for two and a half years.
8 I dealt with them, got them in to see psychiatrists and
9 stuff. I just think that we need to go on with our
10 life, that he should be sentenced right away so that we
11 can go on with our lives and try to put this behind us.

12 I also wanted everybody to know, I have no hard
13 feelings with his mother. They're her grandchildren.
14 She has the right to see them any time she likes. But
15 we would like to go on with this and have him sentenced.

16 THE COURT: Ma'am, for what it's worth, as I
17 said to Mr. Krafchick, this is about as unpleasant as it
18 gets. And I really commend you and his mother, because
19 you've had a burden that no mother of having raised
20 their kids should have to deal with, either loss to
21 death or imprisonment of their child.

22 While I don't know personally and don't want to
23 have that experience, I've had the unpleasant duty as a

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lawyer of going to family court with two grandmothers to get custody of their children because the husband and wife are married, much like this, and watched two grandmothers tell a family court judge that their children were unfit in tears. I've seen it before, ma'am, as a lawyer. It tore me up then. And I'm a little older now and it still doesn't make me feel real good.

At least the one positive thing out of this is that those kids have two grandparents that they can look to and help with counseling in growing up. That's about the best that they could hope for. And that is really good. So I commend you and I commend his mother to work together and to help those kids. Because they are your family. And they're the ones now that need you. You can't bring your daughter back. And you're not going to be able to -- his mother is not going to be able to get him out of jail and restore his life.

So I do commend you. And you did step up to the plate, as they say. And apparently you've done an excellent job and will continue to do an excellent job. And I'm sure his mother will help and do whatever is necessary.

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I can't make it any better. That's the one bad thing about being the judge; you can impose penalties; you can let people out; you could put people in; but you can't make them feel better.

MS. WILSON: Thank you, Your Honor.

(Pause.)

THE COURT: I'm sorry. I don't know -- I knew her name, but I had forgotten it.

MS. LUNGER: Myers.

MR. PANKOWSKI: On behalf of the defendant, Nancy Myers would like to address the Court. This is at my client's request.

THE COURT: I understand.

(Pause.)

MS. MYERS: Your Honor, my son is a good boy. He's done some things that we know were not the right things to do. There's been no winners in this case. These children have lost both of their parents now. I love my son, and I will stand by him. And I hope that the Court finds some pity in your hearts for him.

THE COURT: As I said to Mrs. Krafchick's mother, and, again, I say to you, you haven't had it easy. There have been a lot of things in the social

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history and the reports of Dr. Tavani and Dr. Much which were very detailed. Everybody's had their fair share of hardships in this. And you've lost two people close to you. I know. Because I've had the report. And that had an impact upon him.

I wish I could make it go away, ma'am, but I can't. And I've got a job to do, an unpleasant job. But at least I think that this resolution will put him in a position at some point to at least have some hope, anyway. And, like I said, this is, to say there are no winners, with all due respect to you, is the extreme understatement. Everybody in this case lost and lost big time, starting with the victim, Mr. Krafchick, and most importantly those two girls, so.

MS. MYERS: Thank you, Your Honor.

(Pause.)

MR. PANKOWSKI: Your Honor, both of our experts, Dr. Much and Dr. Tavani, are present in the courtroom. The Court has reviewed Dr. Much's report.

THE COURT: I also reviewed Dr. Tavani's report, who I might add, probably equivocated in negotiating with the parties between not guilty by mental illness -- excuse me -- not guilty by reason of

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mental illness, guilty but mentally ill, and also extreme emotional distress. I think we had the same kind of factual issues and legal argument. It was very comprehensive. And both doctors ought to be commended for their degree and scope of their reports. Even though I probably wouldn't have admitted it into evidence, it certainly was helpful to me in sentencing.

MR. PANKOWSKI: Dr. Much's report, page 6, about what is to happen to Mr. Krafchick in the future: "His dependent personality and his extreme emotional distress led to this offense.

"Mr. Krafchick's current system will not abate in the near future. Personality disorders as well as addictions are enduring by nature. All individuals can overcome depression, anxiety. Given Mr. Krafchick's personality style and limited resources, it is unlikely that he will ever be free fully of psychological problems. Therefore, continued psychiatric treatment, including medication, will be required in the future to address some of his symptoms."

I would urge the Court to put in the sentencing order that Mr. Krafchick will be rendered some psychiatric treatment as is requested. And, hopefully,

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Drs. Much and Tavani will be in contact with him in the future.

He is under medication. At this point we would ask that the court order continue that medication.

There was some concern that we had as co-counsel that Mr. Krafchick might commit another suicide attempt in the near future. We urge that suicide watch at the jail continue based on the Court's sentence.

Dr. Tavani's report kind of sums up in a nutshell why this happened. Her report says that there was acute stress reaction and disorder or extreme emotional distress under the circumstances.

There are factors that led Mr. Krafchick up to a certain point. He had lost all and basically lived a life lost as of January 13th, two days before the homicide. He lost his vehicles, lost his house, lost all his money, was living at motels, lost his two children and most of his friends. We had some friends that might -- were available to testify in our case.

Then there was a glimmer of hope. He had been drug free from December 20th until January 14th. He and his wife Dawn had obtained an apartment. He had helped

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pay for that. He had the phone in his name and actually still has a bill for that. The children were back, although briefly.

This person Chuck, who was the person involved with the deceased, surfaced briefly Saturday night on the telephone. According to our records, Dawn said she's done with Chuck. These two people did cocaine because that's what Dawn wanted to do. He broke his abstinence. They had sexual relations that night. They were going to go into detox either that morning or that afternoon when she went to the restaurant.

Then when she backed out of his plan, their plan, he saw the dissolution of his last hope, fresh start of his relationship with her of reclaiming his family disappeared, suddenly lost control, snapped, and dissociated and committed this offense.

There were many, many factors involved in Mr. Krafchick and his activities of January 15th. We submit to you there are several mitigating factors which would dictate the Court not giving a maximum sentence at least on the weapon's charge. He was under the influence. There was physical and mental impairment. And we submit that was extreme emotional distress as a

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mitigator.

The knife was not brought to the restaurant by him. The knife, according to all witnesses we know, was on that butcher block table. There was another knife down the hallway that was originally in play when he was grappling with the deceased, but that was not used by him. In fact, he used the knife on his own wrist.

And he still has, Your Honor -- we tried to get this evidence in, but he still has problems with his wrist. There's tendon damage. There's obviously deformity to his fingers. Unfortunately, he was not given the prescribed physical therapy while at the Gander Hill facility. And Dr. Danyo, although he didn't testify to it on the record, said that that physical therapy probably would have resolved his hand.

I agree with Your Honor. Nobody wins here; everybody loses. Steven Krafchick, whatever sentence the Court imposes must not lose hope. Because at least at some point in the future he will be released back into society. I just hope that the psychological impact on him will be addressed by the correctional people, that they will permit him psychiatric evaluation periodically.

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He will be able to get his GED, since he only finished eighth grade. And he will concentrate on doing things in the prison that will enable him to be released back into society.

Whether his family wants contact with him at that point remains to be seen. That's obviously their decision. But it comes some point where society as a whole must accept him back based on what price he is to pay for this crime.

I would only urge the Court, if the Court is to give him the State's recommended sentence, which I believe is the maximum, that that apply only to the murder second degree. And that the Court give him the guidelines of the two to five years on the weapon charge.

Mr. Krafchick would like to address the Court at this point.

MS. EPSTEIN: If the State may be heard first, or do you want to hear from the defendant?

THE COURT: I'll hear from the defendant first.

THE DEFENDANT: Your Honor, I'd first like to address to both of the families how remorseful and regretful this whole tragic event has happened and

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putting emotional scars on the lives of my children and the families that it involves.

If there was any way I could take back that day, I would.

There was a love that me and my wife had, which in society's standards may not been right, but we tried to deal with it the best we could and involving feelings and emotions that I couldn't deal with.

So addressing both the families, I ask for forgiveness and mercy from the Court and families.

THE COURT: Thank you, sir.

Ms. Epstein, briefly.

MS. EPSTEIN: Yes, Your Honor, briefly.

I think it needs to be pointed out to the Court that this is not an isolated incident of domestic violence. And I think it's very important to note that, unfortunately, this couple, not only was caught in a cycle of addiction, but this couple was caught in the cycle of domestic violence. And it went on through the whole entirety of their marriage, at least certainly for the last ten years of their marriage.

I agree wholeheartedly with Dr. Much's evaluation that Steven Krafchick was a very dependent

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person. He was dependent upon Dawn. And this was his first love and really frankly probably only love and certainly a long-lasting relationship since the earlier teens.

Unfortunately, with people who have domestic violation issues, there's issue of power and control. And repeatedly Steven Krafchick controlled Dawn, her behavior, who she could go and see, where she could go, what she could do unless he was with her. And he used that control over and over and over again.

Your Honor, it's the State's position, and I want to highlight to the Court, 'cause it's something that, although I know Your Honor is aware of, perhaps others sitting in the courtroom are not, the three weeks before this offense on December 20th, he kept Dawn locked in a motel room for four and a half hours, during which time he threatened to kill her. And, in fact, said to her, I am going to kill you; I don't care if I go to jail.

This is the mindset of somebody who saw his life slip away because Dawn was becoming independent. She was saying to him, no, I'm not going along with your plans anymore; I want my own apartment; I want my own

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life; I can see who I want; I can talk to who I want; and you can't tell me what to do anymore.

And this is a man who couldn't take that. This is a man who thought he was losing it all, his control. And he lost control. And he killed her. And for that he deserves the maximum penalty under the law.

MR. PANKOWSKI: Your Honor, I think the control person the State wants you to believe is possibly incorrect here. In fact, the day before the event, the deceased was caught by him directly with this person Chuck, which was a major impact on his decision-making process.

THE COURT: Mr. Pankowski, Ms. Epstein, I'm not trying the victim. And I'm not even trying Mr. Krafchick anymore. I'm sentencing him.

You know, the world is not a perfect place. And I don't know of too many saints walking around on the streets of Wilmington, Delaware, male or female, married or single. It's a real world, and I have to deal with it. I don't judge her social life or his.

Yes, there was domestic violence. Yes, there was some issue of control. But also there was a taking back, a jockeying of PFAs, reinstituting PFAs.

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You know, Mr. Krafchick has pled guilty to an offense. He did it. How it got this way and if I had to weigh it on the scales of justice as to who was culpable for the demise of their relationship and the damage to their children, I don't know. I'm not a family court judge. I'm not sure I'm capable of making those kinds of assessments.

But it's not, you know, good or evil. It's about somebody who did something they weren't supposed to do. And there's a law. And the law says I have to consider several factors. One of which is the severity of the offense, because I can't bring her back.

Two, the nature of the way the offense was committed, I believe; three, the benefit or sizeable objectives a sentence would impose.

And I do think that we have to make it clear, this sentence won't stop anything, I don't think. What it will do and it will tell people and tell people working in the field, you know, society does care; the system does care. If you do this you will go to jail.

It's not saying Mr. Krafchick is a horrible person or Mrs. Krafchick was a saint or a sinner. I'm not making that judgment. And I want that to be clearly

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noted.

What I am saying is I know they had problems. There was good and bad on both sides. Unfortunately, nobody was able to help them eliminate their problems, while the grandparents stepped in and did what they needed to do, and I commend them again for that.

So I know -- and I'm not God. I'm simply a judge. Somebody else will have to determine who was good or evil.

Having reached that conclusion so many years ago and having reviewed the facts in this case, it is the sentence of this court -- I think the effective date was January 16th, 2001?

MR. PANKOWSKI: Yes, Your Honor.

THE COURT: He arrested on the date of the offense or was it the 15th?

MR. CARR: 16th, Your Honor.

THE COURT: On the charge of murder second, that you pay the cost of prosecution, which I'm suspending, and that you be remanded to the custody of the Department of Corrections for 20 years at Level V -- excuse me -- suspended after 20 years for six months at Level II pursuant to 11 Del. C. Section 4204(l).

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By law, Mr. Krafchick, if I impose the maximum on the sentence, I must follow it with a period of probation. However limited and however nonsensical it may seem to you, that is the law.

So I impose the maximum term to end six months at Level II and then probation.

On the charge of possession of a deadly weapon during the commission of a felony, consecutive sentence, pay the cost of prosecution, which I'm suspending, and be remanded to the custody of the Department of Corrections for 20 years at Level V. That must be served in its entirety.

During the course of this sentence, you must undergo a substance and/or alcohol abuse evaluation and participate in any residential in or outpatient drug or alcohol treatment programs that are deemed appropriate as a result.

You must also undergo a mental health evaluation and continue with any present treatment as well as undertake any new effort determined appropriate based upon said evaluation.

You should have no drugs or alcohol unless medically prescribed. And you should be subjected to

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1 random drug and alcohol screening at the direction of
2 your probation officer once you are released from Level
3 V.

4 And I say once you are released. And while I
5 do not construe sentences unless it comes in the form of
6 a Rule 61 petition, it seems to me that under our
7 current law you will serve three-quarters of any
8 sentence so imposed, which in this case would mean 30
9 years of the 40, which, if my calculations are correct,
10 then you will all, life expectancy tables being
11 accurate, be released within what would be the normal
12 life expectancy of someone your age and social status.

13 I impose the maximum, Mr. Krafchick, because it
14 was a serious felony. It was a violent felony. And I
15 think in the area of domestic violence we have to make
16 it clear, one person does not own another person. One
17 person cannot tell another person to come or go or to
18 stay once they reach the age of majority, anyway.

19 And while, again, this was an unfortunate
20 situation, I think I have an obligation, not only to
21 your children and your family, but to the families of
22 other people who may find themselves in that particular
23 position.

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1 At least the prosecutor, at least defense
2 attorneys, at least Dr. Tavani and Dr. Much, Mrs. Munson
3 can say to people, Don't do this. This would only lead
4 one bad way, and you will be sanctioned.

5 So it's a message. I'm not so sure how
6 effective it is. But I think we have no choice but to
7 try.

8 Would it have stopped you? Maybe not. But
9 maybe it will stop somebody else. And at least I'm
10 hoping it will.

11 So I'm not happy with it, but I felt compelled
12 to do that and to do it in this fashion. And I hope you
13 are able to deal with the demons and illness which I
14 think will conflict you for a considerable period of
15 time.

16 As to any suicide watch, Mr. Pankowski, that
17 the Department of Corrections will have to determine.
18 I'm not competent to make such an assessment.

19 I've watched Mr. Krafchick here. And just
20 because he seems to be appropriately acting or acting
21 appropriately here, obviously doesn't have anything to
22 do with what happens over there.

23 But I would ask correction officers to inform

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them that there may be some concern or that maybe the prison medical staff should look into whether or not the suicide watch is appropriate.

And that's not in any way to say, Mr. Krafchick, that you are considering that. I don't know. I hope you don't, because I still think you have a lot to live for. Your two kids need their father. You mother needs her son. So regardless of what you think of yourself, do us a favor and think of them.

THE DEFENDANT: Yes, Your Honor.

THE COURT: Counsel, anything else before the Court?

MR. PANKOWSKI: No, Your Honor.

MS. EPSTEIN: No, Your Honor.

THE COURT: That being the case, the Court, therefore, stands in recess.

(Whereupon the proceedings concluded at 12:17 p.m.)

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STATE OF DELAWARE:

NEW CASTLE COUNTY:

I, Domenic M. Verechia, Official Court Reporter of the Superior Court, State of Delaware, do hereby certify that the foregoing is an accurate transcript of the proceedings had, as reported by me in the Superior Court of the State of Delaware, in and for New Castle County, in the case therein stated, as the same remains of record in the Office of the Prothonotary at Wilmington, Delaware, and that I am neither counsel nor kin to any party or participant in said action nor interested in the outcome thereof.

WITNESS my hand this 27th day of June, 2002.

Domenic M. Verechia, RPR
Cert.#162-PS

Mandell J. Much, Ph.D., DABPS
Licensed Psychologist
C/o Aquila Of Delaware, Inc.
2110 Duncan Rd.
Wilmington, DE 19808
(302) 999-1106
fax (302) 999-1753

M. Much

Psycho-forensic Evaluation

Patient's Name: Steven Krafchick
Date of Birth: January 6, 1965
Dates of Evaluation: April 10 & June 11, 2001
Date of Report: September 10, 2000

Reason for Referral: Mr. Krafchick was referred for a psycho-forensic evaluation by his attorney, Mr. Ed Pankowski, to assess general psychological functioning in preparation for upcoming trial. Specifically, this evaluation was completed to determine Mr. Krafchick's mental status at the time of the offense.

Sources of Information: Clinical interview with Mr. Steven Krafchick; Review of medical records from Christiana Care Health Services (dated January 24th, 2001); review of Secondary School Records; review of Family Court of New Castle County Records (various); review of treatment records Child, Inc.; review of medical records from Correctional Medical Services (various); Criminal History Record; Affidavit of Probable Cause; Substance Abuse Evaluation; Minnesota Multiphasic Personality Inventory-II (MMPI-II)

Background Information: Mr. Krafchick is a 36 year old, Caucasian male who has been incarcerated at the Multi-Purpose Criminal Justice Facility at Gander Hill since his arrest on January 15, 2001.

Mr. Krafchick is accused of killing his wife, Dawn, during an argument at their previous workplace, the Manor Family Restaurant, in January of this year. According to Mr. Krafchick, he has no memory of killing his wife. According to the paramedic report, Mr. Krafchick was unresponsive and unable to be awakened when they arrived on the scene. Mr. Krafchick remembers waking up in the hospital some time later after having surgery. He was taken to the hospital and treated for a self-inflicted stab wound to his wrist and hand in an apparent suicide attempt.

According to the Police record, on the morning of January 15, 2001, Mr. & Mrs. Krafchick arrived for work together at the restaurant. After entering the restaurant, an argument ensued which became a physical fight. The two fought their way into the kitchen where Mr. Krafchick stabbed his wife to death before turning the weapon on himself. A customer in the restaurant subdued him at that time. The police and emergency medical personnel were summoned.

After receiving medical treatment, Mr. Krafchick was transferred to the Multi-purpose Criminal Justice Facility at Gander Hill and placed on 24-hour suicide watch to protect him from further harm to himself. Mr. Krafchick was evaluated by a psychiatrist who described him as: tearful, anxious, and irritable, with anhedonia (the inability to feel or experience pleasure). He was prescribed Paxil 20 mg. and Tranzadone 400 mg. @ h.s. for depressive symptoms. He has continued on medication throughout the time of his incarceration.

Mr. Krafchick reported that he had known his wife, Dawn, for the past 21 years. They had been married for 17 & ½ years. There are two children from this marriage, Renee, age 17, and Michelle, age 12. Their marriage was always tumultuous characterized by severe conflicts brought about by shared drug dependencies. These drug dependencies resulted in repeated separations and reconciliation, financial problems leading to loss of residence, and loss of custody of their children. According to Family Court Records, in October 1998, Hilda Wilson, Dawn's mother, petitioned the Court for full custody of the children. Mrs. Wilson charged that Steven and Dawn Krafchick were not able to provide adequate care for the children because of their unstable housing, lack of food in the home, and drug involvement. The Court determined that it was in the best interest of the children to be in the care and custody of their maternal grandmother. The children have lived with their grandmother since that time. According to Mr. Krafchick, he had had limited contact with his daughters since they moved in with their grandmother. 7

Mr. Krafchick is the youngest child in a family of two children. Mr. Krafchick's father died when he was 8 years old from carbon monoxide poisoning. Mr. Krafchick reported that his father's death was very traumatic for him. Following his father's death, his older brother, two years his senior, began picking on him, beating him up and embarrassing him in front of his peers. He stated that he told his mother who tried to intervene. However, she was unable to deter his older brother from continued abuse. Mrs. Krafchick remarried a neighbor. Mr. Krafchick stated that he was very fond of his stepfather until his death from a heart attack. Mr. Krafchick reported that he has always maintained a close relationship with his mother often talking with her about his marital problems.

Mr. Krafchick withdrew from high school at age 16. According to his high school record, he failed 9th grade and then dropped out of school in 10th grade when Dawn became pregnant. He was identified as a special education student and always had trouble academically.

Mr. Krafchick's work record reveals a history of low paying jobs, including truck driver, restaurant worker, machine operator, construction worker, and laborer. The most money he ever earned was approximately \$1000.00 per week. Mr. Krafchick stated that he has been fired from several jobs for repeated lateness or absenteeism.

Mr. Krafchick's legal history includes charges processed in the Family Court of New Castle County, mostly for domestic problems. These charges include: failure to pay fines and costs, Assault, Offensive Touching, and Terrorist Threatening. Some of these charges have resulted in various Protection from Abuse (PFA) orders against Mr. Krafchick. A review of the Family Court record indicated that many of the PFAs were subsequently revoked or withdrawn by Mrs. Krafchick. In fact, at the time of Mrs. Krafchick's death, there was a PFA order in place against Mr. Krafchick. However,

according to Mr. Sayn, owner of the restaurant where both Mr. & Mrs. Krafchick worked, they frequently came to work together in the same car and had done so on the day of Mrs. Krafchick's death.

Mr. Krafchick's medical history reveals near sightedness, arthritis, and chronic low back pain. In the 1980s, he suffered a ruptured colon and was forced to wear a colostomy for approximately 6 months. The colostomy was eventually reversed. On January 15, 2001, Mr. Krafchick suffered a self-inflicted laceration to his hand after allegedly stabbing Mrs. Krafchick. He was evaluated and treated in the emergency and surgical departments of Christiana Care. According to the medical record, the injury caused serious nerve and artery damage. Following the surgery, Mr. Krafchick underwent Physical Therapy to strengthen and regain mobility in his hand. It appears that there may be some lasting damage. Since his incarceration, his complaints include persistent nausea and vomiting, numbness in his left hand, and severe headaches. He denied any allergies.

Behavioral Observations: Mr. Krafchick is a Caucasian male, standing 5'11" tall and weighing approximately 210 lbs., who appeared his stated age, who was assessed on three separate occasions at the Multi-Purpose Criminal Justice Facility at Gander Hill. During each session, Mr. Krafchick was dressed in standard Department of Correction attire. His appearance was slightly disheveled and his hair unkempt. He had several large scars on his hand related to recent surgeries.

During each session, Mr. Krafchick was very deliberate in answering questions presented to him. He took a very long time relating information to this examiner. He had difficulty organizing his thoughts and conveying them to me in a cogent manner. Further, he was visibly anxious throughout the interviews. His speech was pressured, of low volume, and monotone. Sometimes, he was shaking. He cried several times throughout the interview.

Mr. Krafchick's mood appeared depressed with accompanying affect. He reported feelings of anhedonia (the inability to experience pleasure even when engaged in previously pleasurable activities). He complained of sleep disturbance with resulting fatigue (interrupted sleep and early morning waking). His appetite has been poor. His outlook was hopeless. He was self-depreciative in his verbalizations but appeared genuinely remorseful. He admitted to past suicidal ideation with at least one attempt. Currently, he experiences intermittent suicidal ideation, although at the time of this evaluation he did not have a plan to kill himself.

Mr. Krafchick's memory was spotty. Although he could generally recall autobiographical information, he was unable to recall a significant event in his life, most notably, stabbing Mrs. Krafchick. Also, he admitted to having had repeated "blackouts", or periods of amnesia, associated with alcohol and other drug intoxication.

Mr. Krafchick's other cognitive processes were also impaired as evidenced by cognitive slowing, mild mental confusion, and verbal expression difficulties (all consistent with individuals suffering from depression).

Mr. Krafchick's sensory and perceptual processes were grossly intact with the exception of diminished grip strength, a result of recent hand injury and surgery.

Based upon Mr. Krafchick's participation in the interview and testing as well as collateral information obtained from other sources, the results of this evaluation appear to be an accurate representation of his typical functioning.

Intellectual Functioning: Although a formal evaluation of intelligence was not completed as part of this evaluation, based upon background information, work history, and presentation, Mr. Krafchick is presumed to be functioning in the Borderline to Low Average range of intelligence. He reported multiple academic difficulties and classification as a Special Education student. He failed 7th grade twice and 9th grade before dropping out of school. His vocabulary, problem-solving skills, and abstract reasoning skills are consistent with individuals in this range of intellectual functioning.

Substance Use Evaluation: Mr. Krafchick has an extensive history of drug and alcohol related problems beginning in adolescence. Mr. Krafchick started smoking marijuana at age 13-14 in the 8th grade. Between the ages of 14-21, he smoked marijuana everyday, often consuming 4-5 "joints" alone or with several peers. He reported typical intoxicating effects from marijuana in that it made him feel more relaxed. He also reported that he had a heightened sense of humor and increased appetite after smoking. He stated that he stopped smoking marijuana on a regular basis at approximately age 21.

Mr. Krafchick also reported smoking Phencyclidine (PCP), alone and in combination with marijuana use. He reported severe sensory and perceptual distortions typically associated with PCP intoxication. During the time he abused PCP, he reported tunnel vision, time distortions, diminished awareness of his surroundings, and feeling like he was "floating" above the earth.

Mr. Krafchick reported taking hallucinogens, including both LSD and Psilocybin mushrooms, approximately 15-20 times in his life. While under the influence of hallucinogens, he reported typical intoxicating effects including severe visual hallucinations and heightened sensory and perceptual experiences. He admitted to having had one "bad trip" in adolescence, the last time he used LSD.

Mr. Krafchick reported abusing amphetamines, including pills and methamphetamine (crystal meth), a potent amphetamine, which typically comes as a powder. He stated that between the ages of 21-25, he regularly abused "crystal meth", both intra-nasally and intravenously.

Mr. Krafchick ultimately developed a serious dependence on cocaine. He initially tried cocaine in high school, at around age 15. By age 18, he became a regular user of cocaine. He frequently sold cocaine in an effort to support his and Dawn's habits. Between the ages of 18 and up until the time of his arrest in January 2001, he intermittently used cocaine. For long periods, he abused cocaine daily, often consuming up to 1/4 of an ounce of cocaine (valued at approximately \$150.00) per day. Both he and Dawn regularly abused cocaine together. As previously mentioned, their cocaine use resulted in their losing money, homes, vehicles, and eventually their children. Mr. Krafchick reported that both he and Dawn frequently made promises to one another to quit. Occasionally, they succeeded for brief periods of time only to relapse and return to addictive use. As is typical of cocaine addicts, Mr. Krafchick and Dawn used the drug compulsively, meaning that once they started they could not stop until all of their current resources for getting the drug were exhausted. As indicated previously, cocaine held

such a powerful grip on both of them that both were willing to sacrifice everything, even custody of their children, for cocaine.

Long-term, chronic, cocaine dependence typically results in serious psychological problems and can create permanent personality changes in individuals, lasting beyond periods of intoxication. Specifically, cocaine addicts become overly suspicious, a personality characteristic displayed by Mr. Krafchick, particularly in regard to his marriage to Dawn. In the months leading up to Dawn's death, Mr. Krafchick believed that his wife was sleeping with other men to share cocaine with them. He actually found Dawn at the home of another cocaine user. According to Mr. Krafchick, Dawn denied any extramarital involvement.

Mr. & Mrs. Krafchick had displayed aggressive behavior toward each other over the years. Aggressive behavior is another common behavior displayed by cocaine addicts. At times, these aggressive interactions resulted in Mrs. Krafchick seeking protection from the police or the Family Court. However, even after sanctions were imposed, Mrs. Krafchick ignored them, choosing to associate and even live with Mr. Krafchick, or "drop the charges or PFAs" after they had been filed. This behavior is typical of couples caught up in a cycle of addiction. They often tolerate extreme abuse from one another, e.g. violence, infidelity, etc., and remain with one another, perpetuating the cycle of abuse over and over again.

Individuals with chronic cocaine dependence will repeatedly compromise their values and behave in immoral ways to continue using cocaine. Often, they feel tremendously remorseful after behaving immorally while using cocaine. People can also experience memory loss or "blackouts" while under the influence of cocaine. This of course is exacerbated when individuals use cocaine in combination with other drugs or alcohol as is frequently done and was the practice of Mr. Krafchick.

Mr. Krafchick has been an alcoholic and drug addict since the age of 17-18. Although he occasionally attempted to stop using a particular drug, at no time in his life was he completely clean and sober from all drugs and alcohol for any extended period of time. It is clear that his addictions, as well as Mrs. Krafchick's addictions, resulted in multiple and serious problems in their lives. They constantly had financial problems having lost homes, cars, and other possessions due to drugs; were often violent with one another; they made repeated promises to one another to change but failed to follow through with any significant change in their behaviors; and they lost their children. In fact, on the day of the Family Court hearing to determine custody, neither Mr. nor Mrs. Krafchick appeared in Court.

Personality: Mr. Krafchick is currently experiencing a major depressive episode. He is displaying typical signs of depression including depressed mood, generalized anxiety, fatigue and lack of energy, mental confusion, sleep disturbance, excessive guilt and feelings of unworthiness, and intermittent suicidal ideation with a recent attempt (January 2001). He is preoccupied, ruminating over problems in his life including his wife's death, other losses he has experienced (deaths of father and stepfather and estrangement from children) and physical illness. He harbors strong feelings of unworthiness, low self-esteem, and hopelessness. These feelings, although exacerbated since his incarceration, were present for many months leading up to the stabbing.

Mr. Krafchick's depression results in feelings of discouragement and a hopeless outlook about the future. He feels strong regrets regarding his family life and the overwhelming costs of his addictions. His hopelessness is pervasive leading him to believe he is a condemned man.

Mr. Krafchick is passive and dependent by nature. Mostly, he fears being alone, feeling unable to manage his life effectively without the constant attention from others. He had difficulty dealing with conflict with others because he feared losing support or approval from them. At times, however, and mostly attributed to alcohol and drug use, both he and Dawn became aggressive and violent toward one another. Even passive people are prone to aggression while under the influence of drugs and especially during sustained relationships fraught with drug addiction. In the months leading up to the stabbing, Mr. and Mrs. Krafchick's marital strife worsened. When together, they shared drugs but talked of getting treatment as they had done many times previously. When separated, Mr. Krafchick believed that Mrs. Krafchick was unfaithful and eventually found her sharing drugs with other men. Mr. Krafchick desperately sought to reconcile with Dawn. He enlisted the support of his oldest daughter to help him. In the days leading up to her death, Mrs. Krafchick apparently had made plans to leave the area. Mr. Krafchick and his daughter, Renee, found her at a bus stop with luggage. He had Renee plead with her not to go. He maintained hope that he and Dawn would reconcile.

Mr. Krafchick is expressing a large number of somatic complaints. Some of these complaints are obviously physically based (hand injury) while others may be a function of the acute stress he is experiencing. Mr. Krafchick is likely to express his anxiety in physical complaints and is more willing to accept physical explanations for his discomfort rather than psychological ones. This may be an unconscious "defensive" posture at the present time in an effort to "protect" himself from the overwhelming and possibly fatal effect of truly acknowledging and accepting the reality of his circumstance.

Like many victims of trauma, Mr. Krafchick remains disconnected from the harsh reality of January 15, 2001. He was in such a heightened state of distress in the months leading up to the stabbing, that his thinking and judgment were severely compromised. Given his limited intellectual capacity, lack of psychological sophistication, and long history of chronic addiction, he was unable to identify the severe nature of his problems and seek help. Unfortunately, a conflict in the restaurant, probably similar to countless other conflicts in this marriage over the years, resulted in a fatality. He remains psychologically disconnected from this tragedy, as it is too overwhelming for him to accept.

Summary and Recommendations:

Mr. Krafchick's pattern of symptoms support the following diagnoses:

- Axis I: Major Depressive Disorder, Severe, Without Psychotic Features (296.33)
- Polysubstance Dependence (304.80)
- Somatization Disorder (300.81)
- Generalized Anxiety Disorder (300.02)
- Axis II: Dependent Personality Disorder (301.6)
- Axis III: Colon Surgery, multiple somatic complaints (By history)

Axis IV: Severe and Enduring-Legal Problems, Medical Problems, Family Problems
 Axis V: 35

Mr. Krafchik suffers from a number of mental illnesses that substantially alter his thinking and behavior. Although his personality disorder has likely been present since early adulthood, the depression and anxiety disorders were caused by the stress he experienced anticipating that his marriage was once again failing. Consequently, at the time of the stabbing, Mr. Krafchick's psychiatric illnesses coupled with the distress he was experiencing, substantially affected his thinking, his feeling and his behavior, and were so impairing that he was not aware of the consequences of his acts. Therefore, this action can only be viewed as one caused by extreme emotional distress.

Mr. & Mrs. Krafchick were unable to effectively manage their lives together throughout their marriage. As mentioned previously, they lost homes and custody of their children because of their lifestyle. However, even these losses coupled with orders from the Family Court, could not deter them from staying together. This perverse attraction on both of their parts led to Mr. Krafchick's inability to tolerate being separated from Mrs. Krafchick.

It is also important to consider the impact of Mr. & Mrs. Krafchick's lives on their children. Both Renee and Michelle (daughters) have likely endured unbelievable neglect over the years while living with their parents, either together or alone. It was not until their grandmother petitioned the Court for custody that the girls had a chance for a more normal, orderly, and predictable life. Now, their mother gone, their father incarcerated for the killing, they are faced with the prospect of losing their father forever. It is in the best interest of these children to consider the already monumental losses they have endured when considering sentencing for Mr. Krafchick.

Mr. Krafchick's current symptoms will not abate in the near future. Personality Disorders as well as addictions are enduring by nature. While individuals can overcome depression and anxiety, given Mr. Krafchick's personality style and limited resources, it is unlikely that he will ever be fully free of psychological problems. Therefore, continued psychiatric treatment including medication will be required in the future to address some of his symptoms.

Mandell J. Much, Ph.D., DABPS
 Mandell J. Much, Ph.D., DABPS
 Licensed Psychologist
 Diplomate, Forensic Psychology
 Substance Abuse Psychology

CHRISTIANA PSYCHIATRIC SERVICES

SUITE 124
MEDICAL ARTS PAVILION
4745 OGLETOWN-STANTON ROAD
NEWARK, DELAWARE 19713

CAROL A. TAVANI, M.D., F.A.P.A.
Diplomate, American Board of
Psychiatry & Neurology

Adult and Consultation Psychiatry
Telephone (302) 454-9900

The following is the psychiatric evaluation of Steven W. Krafchick. I evaluated Mr. Krafchick at Gander Hill Prison (the Multi-Purpose Criminal Justice Facility) on December 21, 2001, for two hours, forty five minutes.

This thirty-six year old white, now-widowed male is charged with first degree murder in the January 15, 2001 stabbing death of his wife, Dawn. My understanding is that this occurred at the restaurant where they had both worked, in plain view of the restaurant's occupants, and that Mrs. Krafchick was stabbed some thirty six times, with the knife remaining in her body.

The purpose of this evaluation was to determine Mr. Krafchick's mental status at the time of the incident, to elucidate his psychiatric diagnosis as well as factors affecting his state of mind and behavior at the time.

In preparation for the interview I reviewed the following records:

Psychoforensic evaluation of Mandell J. Much, Ph.D.;
Report of David E. Raskin, M.D.;
Medical Records of Correctional Medical Services;
Medical Records of Christiana Care Health Systems of January 15-18, 2001;
Report card from Delcastle Technical High School, 1980-1981;
Family Court Records, 1991 to 1998;
Order for Custody of 10/29/98;
Affidavit from Child, Inc. of Mr. Krafchick's participation, 6/27/97-3/9/98;
Affidavit of Probable Cause, State of Delaware v. Steven W. Krafchick.

PAST MEDICAL HISTORY:

His primary physician is Dr. Mark Glassner, whom he does not see regularly.

Cigarettes: One half pack per day.

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Alcohol: began at age ten, while under supervision of his older brother and his friends. By age fifteen, he was drinking a case of beer a day, but diminished at about nineteen. For a long period he did not drink to excess or even daily, but had restarted daily and heavily in late December of 2001.

Drug abuse history is extensive. He began at age ten, with marijuana, again with his brother. Next came amphetamines, at age twelve, which he used daily, for about three years. Then came cocaine, which has been the major drug of abuse over the years. There had also been some use of intravenous crank (amphetamine), then cocaine, with no sharing of needles.

There had been occasional use of miscellaneous drugs in the remote past, including hallucinogens perhaps twenty times, with some adverse experiences ("bad trips"). There is history of several blackouts; he once had no recollection of having repaired their truck.

The crack cocaine dependence, however, was a severe problem, shared with his wife over the years, with shared usage in the three to four hundred dollar a day range. There was a period of sobriety from 12/20 to 1/14/2001, at which time he was trying to turn himself around.

Chronic back pain, secondary to work-related injury as a mover.

Carpal Tunnel Syndrome bilaterally.

Osteoarthritis in fingers, wrists, knees, and ankles.

Head injury at five (hit by a rock), without loss of consciousness; and at eleven (accident at school), with loss of consciousness.

Another head injury with loss of consciousness occurred when he was assaulted 2/1/97. H Colonic perforation, requiring colostomy in 1984; this was subsequently reversed.

Self-inflicted stab wound to left wrist 1/15/01, with damage to several flexor tendons (flexor digitorum superficialis 4 and 5 and flexor carpi ulnaris and palmaris longus), requiring repair, and laceration of the ulnar nerve and artery, which also required surgical repair.

Superficial laceration to the right groin, in the same episode.

Intubation in ER on same date, due to unresponsiveness at the scene and no reaction except to deep pain.

PSYCHIATRIC HISTORY:

There is significant history of depression, dating back to childhood; his father had died tragically, by accidental carbon monoxide poisoning when he was eight. He had tried to deal with his father's death, but could not, and so his mother took him for counselling to Delaware Children's Services, on Delaware Avenue. He had not been getting along with his teachers in school, and was acting out, not going to school, and drinking or using

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marijuana. He liked going to the therapist, and felt that it helped, at least a little. He was in counselling for almost two years. He did not receive any medications by his recollection. He feels that he has never put this loss, exacerbated by subsequent losses, to rest. He admits to having had suicidal ideation at times in the past.

His next psychiatric encounter was a six to eight month period when he went with his wife and family to Newark Family Counselling. There were serious financial problems because of their drug abuse, and this had led to marital problems. Dawn tended not to keep her appointments, but he continued to go, and paid out of pocket for much of the time.

In 1997-1998 he was remanded to Child, Inc. Anger Management classes. He tells me that Dawn told a Family Court Judge that his anger was uncontrollable, so he was court-ordered. He admits to having pushed her, but never their children.

Also in 1998 they both went to NET Counselling, for about a month, which did not result in sobriety.

SOCIAL HISTORY:

He grew up in Stanton, the youngest of three children. His father was a line worker at General Motors, and is described as a functional alcoholic (a case of beer daily), as was his paternal grandfather. He and his father were very close. His mother is a homemaker, and he is close with her as well.

When he was eight, his father and his uncle were working on a car; they had rigged up an exhaust system in the garage, but it was insufficient, and both suffered asphyxiation. The uncle's daughter found the two. The family arrived as the ambulance was just leaving. His uncle suffered brain damage, but survived. His father did not.

His sister, Judy, is four years older. She is divorced and has one child. Judy lives with their mother, who is now 66, owns her own home in Stanton, and is in good health.

His brother, John, is two years older. John is a bus driver for Ryder. He, too, is divorced with one child. He lives alone in an apartment in Newport. John is an alcoholic, and is still drinking. He has a significant past history of drug abuse, which he was able to stop, but became a heavy drinker after his divorce. John, too, has suffered from significant depression, but has not ever gotten any help with it.

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After their father's death, John became physically aggressive toward Steven, as well as demeaning in front of his peers. Steven did tell his mother, who tried to intervene, but unsuccessfully.

After their father's death, both sets of grandparents helped out, and their mother did receive benefits, so they were able to stay in their home. He describes a stable environments, with pets, and some happy recollections.

Their mother remarried two and a half years later. He came to like his stepfather, who was a supervisor for ConRail, in the freightyard. He is described as a second father to Steven. This man died of a sudden cardiac demise when Steven was sixteen, an event described as an additive trauma, with resurgence of all the pain from the first loss, and he coped by escalating his drug use.

Educational History:

He was in Special Education classes from fifth or sixth grade on, for math, spelling, reading and English, to the best of his recollection (which is hazy on this). Even with this extra help, he failed seventh grade twice.

In ninth grade, he was asked to leave school; his attendance was poor, and he was caught with drugs on more than one occasion. There was no history of fights, firesetting, or other aberrant behavior.

He never earned a GED; he did go to the Grove School for half a semester, but found it too difficult to work and attend classes at the same time.

Work History:

His first job was at a sub shop at age thirteen, for about a year. He then worked as a carpenter's assistant for three years. He and a coworker quit that job over what he described as an inhumane work situation, and he then worked as a mover for Lane. He worked with Mr. Lane from age sixteen until two years ago. There was one four year span wherein he worked there steadily, and the rest was intermittent. In between, he drove a truck for Bear Delivery.

He admits having been fired a few times for lateness and absences, because of drugs, but has always managed to find work of one sort or other. He has also worked as a mechanic, a pizza delivery man, and three years ago as a waiter.

At the time of the incident, he had just quit his job at the Manor Family Restaurant, over comments made by the owner, R.J. Swann, which were antagonistic; he reports that Mr.

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Swann told him that he should have realized that Dawn, who also worked there as a waitress, was being unfaithful.

Family History:

He met Dawn when he was fifteen and she was fourteen, and living in the apartment complex across the street. Dawn was the first person with whom he was intimate. In their teens, he was unfaithful, and they broke up for one year. They got back together when he was sixteen, and have been together since (twenty one years).

They married in 1984. He was never unfaithful thereafter, and does not feel that she ever was until the Summer of 2000, when he (actually, the police) found her in a motel with a waiter, Michael.

He tells me that they were due in Family Court for a custody hearing that day. He could not find her, and became frantic; he filed a missing persons report, and the police found their truck at the motel where Michael was, and Dawn inside. Dawn had a capias at the time, and went to BWCI from there.

There are two children: Renee, 18 and Michele, 12. The Krafchicks lost custody of the girls in 1998 because Renee herself recognized the environment as unstable, and asked her maternal grandmother, Hilda Wilson, to come and get them. Mrs. Wilson and her husband took the children, against their parents' resistance, and her husband called the police.

Michele is still in counselling, but Renee is no longer.

Their family life has been chronically and severely dysfunctional, related to the longstanding, shared history of drug abuse and its sequelae. There have been numerous evictions for inability to pay the rent or mortgage. They lost all of their furniture, which was in storage. They lost a brand new car. They were evicted from five motels. They lost their children.

They would argue, pushing and shoving each other. They became desperate enough that they both sold drugs. Dawn would seek Protection from Abuse orders, then ignore them; there was actually one in place at the time of the incident, yet they were together and he had driven her to work that day, and they had planned to seek rehabilitation together that day.

On December 20, he was arrested on a domestic abuse charge. They had been living in a motel, and had been up most of the night. Dawn went out to work and it had snowed. He recalls that she had missed the bus and come back in. He had gone back to sleep. He was next awakened by the police and a K-9 officer, and was arrested for abuse, with no idea why. He was then bailed out by his boss.

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On the 24th, she came to work, and they talked. He respected her statement that she needed some time to be alone, but she then asked him to spend Christmas together, with the girls, which he did, at his mother's, but Dawn never showed up, despite her request -- and also did not show up for work.

After that, his daughter Renee was driving him to his probation appointment, when they saw Dawn across the street. She got into the car with them, and there was some arguing, but he went to his appointment.

He later found out she was with another man, Chuck, from December 20 to 27, and with whom she eventually admitted an affair.

Legal History:

Family Court records dating back to 1991 reveal a number of petitions for protection from abuse, many of which were then dismissed or withdrawn. This is consistent with his report that Dawn would become angry, file them, and then seek to undo them. There were associated charges of offensive touching, assault, and terroristic threatening.

Events Leading to the Incident:

Mr. Krafchick explains that he and his wife were living together at Lincoln House Apartments since the Friday before the incident (prior to that, he had been staying with coworkers from the restaurant, and she had been at a shelter in Brandywine Hundred). They got up, took a shower, and she made a phone call to Chuck to tell him to leave her alone.

The night before the incident, she was supposed to pick him up at work at eleven. However, he had had words with their boss, as described above, and walked out at 7:30. He walked to the apartment, and she was not there. She had told him she was going to the store when he had left at three. He got a ride from Rock, the man next door to Pathmark, to look for her. His neighbors told him that she might be at the motel again, and so he asked Rock to swing by Chuck's motel first, and indeed there was the car. He knocked on the door, and Chuck denied that she was there, but the motel manager intervened for him, and she was indeed there. She told him she was there to get high; he had not had cocaine for 25 days, but told her if she wanted to get high they would go get drugs together. At that point she left with him in his car, they got drugs in Wilmington, and went to his apartment. She asked him to get more, and he did. On his return, she asked him to make love. Afterwards, they talked about the future, and how much they had lost. It was at that

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point that she admitted having had an affair with Chuck, but told him he wouldn't understand why.

They stayed up and talked until 4 AM, and were using crack to that point. They decided to go to the Drug Rehab on Kirkwood Highway; if work wasn't busy, they would leave early and go directly.

She was due in at ten, and he drove her. He waited inside for her, to see if they were going to the rehab then. She was equivocating, and he got upset, and loud, and asked "are we going to rehab or not?" She said yes, and went into the next room to get her coat. However, she then told the manager, Adam, to tell him to leave, that she wasn't going with him.

The next thing he recalls is waking up in the hospital. He heard the nurses and two officers talking. The Channel Six News was on, and he heard that Dawn was dead.

MENTAL STATUS EXAMINATION:

revealed a pleasant, cooperative man appearing his stated age. He was easily and frequently tearful, and used up a sizable supply of tissues I had with me. His mood was anxious, distressed, and depressed. Affect was appropriate to ideation. His greatest upset was over the loss of his wife. Speech was coherent, relevant, and goal-directed, without evidence of psychosis; I did not detect paranoia, given the context that his suspicions were confirmed.

He evidenced numerous neurovegetative depressive symptoms, including a very low mood most of the time, poor appetite, insomnia, and somewhat impaired concentration. He has intermittent suicidal ideation, but no intent. He feels able to read reasonably well, and is trying to read materials in the Law Library. He reads the newspaper when available.

He tells me that after he was incarcerated, he was placed on Paxil and Trazodone, but had an adverse reaction, with nausea and dizziness. He was then switched to Sinequan and Vistaril, which has been better, and with this he is getting about three hours of sleep. His mood, however, is no better.

In terms of cognitive function, he gave his history as above, with good recall for most remote and recent events in general although with some exceptions. He was fully oriented, but could only recall portions of three complex objects after five minutes. He was unable to do any serial subtractions correctly, although he did try repeatedly. There was some confabulation in his short term recall responses, with his filling in the gaps with what he thought must be a correct response.

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When I probed into his recall of the altercation in the restaurant and what followed, he had absolutely no recall other than what is described above. This is entirely consistent with the trauma flowsheet in his medical records; the Paramedic Report documents that he was unresponsive at the scene, unable to be awakened. BLS was dispatched at 10:24 and arrived in two minutes, at 10:26. They described him as obtunded, as did the second unit to respond at 10:36. Once in the ER (he arrived at 10:55), he is described as unresponsive except for some movement to deep pain and in fact he required a breathing tube and was actually intubated in the ER at 11:15. He was admitted to the Intensive Care Unit, then went rather emergently to the Operating Room.

Insight was uneven, with a persistent mentality of one who has had a longstanding addiction. He has insight into his depression and its genesis. He did draw a connection at times between the drug use and self-medication of his pain. Judgment at this time appears intact.

DIAGNOSTIC IMPRESSIONS:

Axis I:

1. Major depression, single episode but longstanding, without psychotic features.
2. Dysthymic Disorder.
3. Substance-induced mood disorder
4. Persistent substance-induced cognitive disorder.
5. Learning Disorder, NOS
6. Cocaine dependence
7. Alcohol abuse, intermittent
8. History of mixed substance abuse in past
9. Acute Stress Reaction

Axis II: Personality Disorder, with inadequate and dependent features.

DISCUSSION:

This individual experienced an early loss, which was traumatic and recapitulated later on, in his teens, by a subsequent, similar loss. He never fully recovered from this, and his coping mechanisms in general do not facilitate recovery from such events. The same dependence which made the early parental losses so difficult also was operative in keeping him tied in to (and codependent in) a severely pathologic relationship which was counterproductive to both partners as well as to their children.

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Aside from the counselling he had as a child, his depression was never really identified or addressed, and his major method of coping with his pain was self-medication with drugs and/or alcohol. Thus was incepted the establishment of a vicious cycle of dual diagnosis, which was never successfully interrupted.

With regard to the precipitants of his attack on his wife, the following may be said. He broke his own twenty-five day, unprecedented abstinence from cocaine, his "drug of choice" in order to wrest his wife away from another man, to whom she had clearly turned to seek drugs.

In the course of relapsing with her that very night, he heard her admission of sexual infidelity with this man.

Despite this, he was resolved to seek help together with her.

When she backed out of this plan, what he saw was the dissolution of his last hope of a fresh start for his life, his relationship with her, and of reclaiming his family. All that they had identified as having lost once was suddenly lost again, and forever. Her refusal to go with him was unbearable to him, and he saw himself sinking into emotional quicksand. Given this, he snapped, and dissociated.

His symptoms and behavior best fit the DSM-IV description of an Acute Stress Reaction or Disorder, given the trauma of the event, his intense sense of frustration, fear and helplessness, and then the reactive detachment and dissociation with dissociative amnesia.

He continues to experience acute distress upon being reminded of the events, and had marked symptoms of that distress (insomnia, trouble concentrating, irritability) still. His symptoms are multiply determined; i.e., these symptoms also overlap with those of a depressive disorder, but the degree of unresponsiveness documented by three sets of objective observers (two paramedic teams and the ER staff) is best explained by a dissociative episode.

In extrapolating psychiatric diagnoses into legal terminology, it can be said that the circumstances which occurred were so overwhelming as to have rendered him deaf to the voice of reason, and that his degree of upset precipitated by the admission of infidelity, the coercion into cocaine relapse, then finally the refusal of his codependent to go with him together to what he saw as a last chance for salvation, resulted in a frenzy of mind. I asked him a McNaughton-like question, in the form of were a policeman to have come into the restaurant and been sitting at the counter, would this still have happened. His response indicated that he was essentially so out of touch at the time that unless someone had physically intervened, he was not able to exercise any sort of self-intervention. He has no recall of where the knife came from, what it looked like, or any other details of the incident, including any intent to harm his wife.

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This response would likely have occurred even absent the cocaine. I say this based on his dependent features, the rejection and massive insult which had just come to the fore, and the degree of desperation operative at the time.

The above is stated to a reasonable degree of medical certainty.

If there are any questions, please do not hesitate to call.

Carol A. Tavani, M.D. 12/29/04

Carol A. Tavani, M.D., M.S., F.A.P.A.

CORRECTIONAL MEDICAL SERVICES, Inc.

PHYSICIANS ORDERS

Name Steven Kratchick

DOB _____

Location _____

ID# _____

Allergies _____

Check box if order is urgent Noted by: <u>B. H. H. H. H.</u> Date: <u>2/5/01</u> Time: <u>2:00</u>	(Date & Time) <u>Paxil 30mg po qhs x 90 Days</u> <u>Trazodone 100mg po qhs x 90 Days</u> <u>TSIT</u> M.D. Signature <u>W. F. H. H. H.</u> Date/Time <u>2/5/01 4pm</u>
Check box if order is urgent Noted by: <u>M. J. H. H. H.</u> Date: <u>7/2/01</u> Time: <u>1:00</u>	(Date & Time) <u>Sinequan 150mg po qhs x 90 Days</u> <u>plc ALL other Y meds.</u> <u>Return to MH clinic in 12 weeks - 9/24/01</u> M.D. Signature <u>K. H. H. H.</u> Date/Time <u>7-2-01/2pm</u>
Check box if order is urgent Noted by: <u>K. H. H. H. H.</u> Date: <u>7/7/01</u> Time: <u>1550</u>	(Date & Time) <u>Sinequan 150mg po qhs</u> <u>Visit at 209 12 PM for Anxiety (90)</u> M.D. Signature <u>S. H. H. H.</u> Date/Time <u>7/6/01</u>
Check box if order is urgent Noted by: <u>R. H. H. H. H.</u> Date: <u>9/26/01</u> Time: <u>0330</u>	(Date & Time) <u>Tylenol 650mg po TID x 30 Days</u> <u>Presc x 12/6/01</u> M.D. Signature <u>L. H. H. H.</u> Date/Time <u>9/24/01</u>

CORRECTIONAL MEDICAL SERVICES, Inc.

PHYSICIANS' ORDERS

Name Steve Krafchick D.O.B. 1-6-65
 Location 2A ID# 178856 Allergies Denied

Check box as order is noted:	(Date & Time)
Noted by:	<u>Singman 100 mg po qhs x 120 days</u>
Date: <u>3/28/01</u>	
Time: <u>11:30</u>	
M.D. Signature <u>[Signature]</u>	Date/Time <u>3/28/01 2P</u>
Check box as order is noted:	(Date & Time)
Noted by:	<u>pl. Schedule 1/2 hr for F/U to Dr. Danyo.</u>
Date:	
Time:	
M.D. Signature <u>[Signature]</u>	Date/Time <u>4-20-01</u>
Check box as order is noted:	(Date & Time)
Noted by:	<u>Tylenol 650mg po TID x 30 days</u>
Date: <u>5/4/01</u>	
Time: <u>11:52</u>	
M.D. Signature <u>[Signature]</u>	Date/Time <u>5/6/01</u>
Check box as order is noted:	(Date & Time)
Noted by:	<u>(1) PHYSICAL THERAPY of spine with 5th finger</u>
Date: <u>5/4/01</u>	
Time: <u>13:20</u>	
M.D. Signature <u>[Signature]</u>	Date/Time <u>5-4-01</u>

CORRECTIONAL MEDICAL SERVICES

PHYSICIANS' ORDERS

NAME	Krafchick, Steven	1.	Start (Date & Time)	10/11/07
D.O.B.	1-6-65	2.		
LOCATION	GH	3.		
ALLERGIES	PKW	4.		
		5.		
		6.		
		7.		
		8.		
		9.	Start (Date & Time)	1/3/02
NAME	Krafchick Steven	10.		
D.O.B.		11.		
LOCATION		12.		
ALLERGIES		13.		
		14.		
		15.		
		16.		
		17.	Start (Date & Time)	2/14/02
NAME	Krafchick Steven	18.		
D.O.B.	1-6-65	19.		
LOCATION	GH	20.		
ALLERGIES	WHA	21.		
		22.		
		23.		
		24.		
		25.	Start (Date & Time)	2/18/02
NAME	Krafchick Steven	26.		
D.O.B.	1-6-65	27.		
LOCATION	GH	28.		
ALLERGIES	WHA	29.		
		30.		
		31.		
		32.		
		33.	Start (Date & Time)	
NAME		34.		
D.O.B.		35.		
LOCATION		36.		
ALLERGIES		37.		
		38.		
		39.		

Sinequan

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Bipolar Treatment
Residential Treatment for Adults with
Psychological Problems

Bipolar Mental Illness
How To Identify, Handle & Deal With Bipolar
Disorder. Secrets Revealed.

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Brand name:

Sinequan

Pronounced: SIN-uh-kwan

Generic name: Doxepin hydrochloride

Why is this drug prescribed?

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Sinequan is used in the treatment of depression and anxiety. It helps relieve tension, improve sleep, elevate mood, increase energy, and generally ease the feelings of fear, guilt, apprehension, and worry most people experience. It is effective in treating people whose depression and/or anxiety is psychological, associated with alcoholism, or a result of another disease (cancer, for example) or psychotic depressive disorders (severe mental illness). It is in the family of drugs called tricyclic antidepressants.

Most important fact about this drug

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Serious, sometimes fatal, reactions have occurred when Sinequan is used in combination with drugs known as MAO inhibitors, including the antidepressants Nardil and Parnate. Any drug of this type should be discontinued at least 2 weeks prior to starting treatment with Sinequan, and you should be carefully monitored by your doctor.

If you are taking any prescription or nonprescription drugs, consult your doctor before taking Sinequan.

How should you take this medication?

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Take this medication exactly as prescribed. It may take several weeks for you to feel better.

--If you miss a dose...

If you are taking several doses a day, take the missed dose as soon as you remember, then take any remaining doses for that day at evenly spaced intervals. If it is almost time for your next dose, skip the one you missed and go back to your regular schedule. Never take 2 doses at the same time.

If you are taking a single dose at bedtime and do not remember until the next morning, skip the dose. Do not take a double dose to make up for a missed one.

--Storage instructions...

Store at room temperature.

What side effects may occur?

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Side effects cannot be anticipated. If any develop or change in intensity, inform your doctor as soon as possible. Only your doctor can determine if it is safe for you to continue taking Sinequan.

The most common side effect is drowsiness.

- *Less common or rare side effects may include:*

Blurred vision, breast development in males, bruises, buzzing or ringing in the ears, changes in sex drive, chills, confusion, constipation, diarrhea, difficulty urinating, disorientation, dizziness, dry mouth, enlarged breasts, fatigue, fluid retention, flushing, fragmented or incomplete movements, hair loss, hallucinations, headache, high fever, high or low blood sugar, inappropriate breast milk secretion, indigestion, inflammation of the mouth, itching and skin rash, lack of muscle control, loss of appetite, loss of coordination, low blood pressure, nausea, nervousness, numbness, poor bladder control, rapid heartbeat, red or brownish spots on the skin, seizures, sensitivity to light, severe muscle stiffness, sore throat, sweating, swelling of the testicles, taste disturbances, tingling sensation, tremors, vomiting, weakness, weight gain, yellow eyes and skin

Why should this drug not be prescribed?

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If you are sensitive to or have ever had an allergic reaction to Sinequan or similar antidepressants, you should not take this medication. Make sure that your doctor is aware of any drug reactions that you have experienced.

Unless you are directed to do so by your doctor, do not take this medication if you have the eye condition known as glaucoma or difficulty urinating.

Special warnings about this medication

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Sinequan may cause you to become drowsy or less alert; driving or operating dangerous machinery or participating in any hazardous activity that requires full mental alertness is not recommended.

Notify your doctor or dentist that you are taking Sinequan if you have a medical emergency, and before you have surgery or dental treatment.

Possible food and drug interactions when taking this medication

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Alcohol increases the danger in a Sinequan overdose. Do not drink alcohol while taking this medication.

Never combine Sinequan with drugs known as MAO inhibitors. Medications in this category include the antidepressants Nardil and Parnate.

If you are switching from Prozac, wait at least 5 weeks after your last dose of Prozac before starting Sinequan.

If Sinequan is taken with certain other drugs, the effects of either could be increased, decreased, or altered. It is especially important to check with your doctor before combining Sinequan with the following:

Antidepressants that act on serotonin, such as Prozac, Zoloft, and Paxil
Other antidepressants such as Elavil and Serzone
Carbamazepine (Tegretol)
Cimetidine (Tagamet)

Clonidine (Catapres)
Flecainide (Tambocor)
Guanethidine (Ismelin)
Major tranquilizers such as Compazine, Mellaril, and Thorazine
Propafenone (Rythmol)
Quinidine (Quinidex)
Tolazamide (Tolinase)

Special information if you are pregnant or breastfeeding

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The effects of Sinequan during pregnancy have not been adequately studied. If you are pregnant or planning to become pregnant, inform your doctor immediately. Sinequan may appear in breast milk and could affect a nursing infant. If this medication is essential to your health, your doctor may advise you to discontinue breastfeeding your baby until your treatment is finished.

Recommended dosage

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ADULTS

The starting dose for mild to moderate illness is usually 75 milligrams per day. This dose can be increased or decreased by your doctor according to individual need. The usual ideal dose ranges from 75 milligrams per day to 150 milligrams per day, although it can be as low as 25 to 50 milligrams per day. The total daily dose can be given once a day or divided into smaller doses. If you are taking this drug once a day, the recommended dose is 150 milligrams at bedtime.

The 150-milligram capsule strength is intended for long-term therapy only and is not recommended as a starting dose.

For more severe illness, gradually increased doses of up to 300 milligrams may be required as determined by your doctor.

CHILDREN

Safety and effectiveness have not been established for use in children under 12 years of age.

OLDER ADULTS

* Due to a greater risk of drowsiness and confusion, older people are usually started on a low dose.

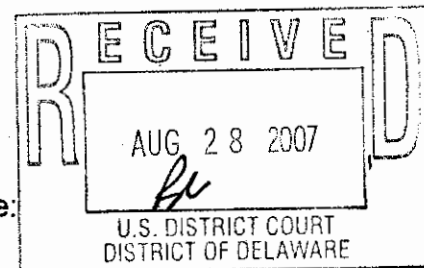
Overdosage

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- *Symptoms of Sinequan overdose may include:*
Agitation, coma, confusion, convulsions, dilated pupils, disturbed concentration, drowsiness, hallucinations, high or low body temperature, irregular heartbeat, overactive reflexes, rigid muscles, severely low blood pressure, stupor, vomiting

If you experience any of these symptoms, seek medical attention immediately. An overdose of this drug can be fatal.

Doxepin Hydrochloride



- Trade name products which contain doxepine include:
(Sinequan)(Adopin)(Triadapin)(Nova-Doxepin)

INDICATION

A tricyclic antidepressant medication used for the treatment of depression.
Occasionally used to treat itching.

SIDE EFFECTS

Drowsiness, dizziness, tremors, anxiety, confusion, weakness, headache,
increased heart rate, increased or decreased blood pressure, ringing in the ears, blurred
vision, tongue swelling, constipation, nausea, vomiting, dry mouth, anorexia,
paralyticileus, rash, urine retention, and sweating. Rare effects include: hallucinations,
decreased sex drive, fainting, back pain, itching sore throat, involuntary movements of
jaw, lips and tongue, nightmares, swollen breast, and swollen testicles.

INTERACTIONS AND PRECAUTIONS

1. MAO inhibitors (Nardil) can lead to anxiety, elevated body temperatures, and seizures.
2. Methylphenidate may increase the antidepressant effects.
3. Cimetidine can increase the adverse effects of doxepin.
4. Barbiturates may decrease the effects of doxepin and lead to oversedation.
5. Use with anticoagulants (Coumadin) may increase anticoagulant effect.
6. Use with anticholinergics can increase anticholinergic effects.
7. Use with antihistamines can increase antihistamine effect.
8. Use with benzodiazepines can lead to oversedation.
9. Use with bupropin can increase risk of seizures.
10. Use with alcohol can increase intoxication - avoid.
11. Use with nicotine may decrease antidepressant effect.

USUAL DOSE

Adults:

Antidepressant: 25mg three times a day.

Antipruritic: 10mg at bedtime.

Children (under 12): dosage not established

:Pixel Perfect Software

:P.O. Box Drawer 410129

:Melbourne, FL. 32941-0129

:Phone: (407) 777-5353

:Fax: (407) 777-0323

:Sales: (407) 779-0310

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**Back and Neck Pain Relief
with Lifestyle-Friendly Surgery?**

Medtronic
SOLAS 1000 1049

Vistaril®

Generic Name: Hydroxyzine hye-DROX-i-zeen

Drug Class: Sedatives/Hypnotics

Drug Search

Contents

- Description
- General Information
- Proper Use
- Missed Dose
- Storage
- Side Effects
- Warnings/Precautions
- Overdose
- Drug Interactions
- Pregnancy/Nursing
- More Information

Description

This medicine is a sedative which is used to help people with sleeping problems (such as trouble falling asleep, trouble staying asleep during the night, or waking too early in the morning). This medicine may be prescribed for other conditions as determined by your doctor.

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General Information

This information is for educational purposes only. Not every known side effect, adverse effect, or drug

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interaction is in this database. If you have questions about your medicines, talk to your healthcare provider.

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Proper use of this medicine

Take this medicine exactly as directed. It may be taken with food or milk if stomach upset occurs.

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Missed Dose

Take your next dose as soon as you remember. If it is time for your next dose, skip the missed dose and go back to your regular schedule. Do not double doses.

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Storage

Keep this medication in the container it came in, tightly closed, and out of reach of children. Store it at room temperature and away from excess heat and moisture. Throw away any medication that is outdated or no longer needed.

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Possible Side Effects

- o If any of these effects persist or worsen, inform your doctor promptly:
 - stomach upset
 - blurred vision
 - headache
 - dizziness
 - depression
 - impaired coordination
 - memory loss
 - hangover effect or clouded thinking may occur

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Warnings/Precautions

- o This medicine may cause drowsiness.
- o Alcoholic beverages can increase the effects of this medicine and should be avoided.
- o Be cautious when driving or performing other hazardous activities. This medicine can impair judgment.

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Overdose

Seek medical attention immediately. U.S. residents can call the national poison hotline at 1-800-222-1222. Canadian residents should call their local poison control center directly.

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Drug Interactions

- o Possible drug interactions may occur with other sedating medications or pain medications.

- o Talk to your doctor if you are taking any medications for depression, pain, or seizures. Other sedative medications including over-the-counter antihistamines can increase the side effects of this medicine and should be used cautiously.

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Pregnancy/Nursing

If you are pregnant or thinking of becoming pregnant, talk to your doctor about the benefits and the risks of taking this medicine during your pregnancy. This medicine is excreted in breast milk. Do not breastfeed while taking this medicine.

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More Information

For more information about this medicine, talk to your healthcare provider.

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This information is not intended to cover all possible uses, directions, precautions, drug interactions, or adverse effects. This is general information and should not in any event be construed as specific instructions for individual patients. The publisher does not accept any responsibility for the accuracy of the information or the consequences arising from the application, use, or misuse of any of the information contained herein, including any injury and/or damage to any person or property as a matter of product liability, negligence, or otherwise. No warranty, expressed or implied, is made in regard to the contents of this material. The reader is advised to check with their health care provider before making any changes in their drug regimen.

Vistaril®

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Drug Names

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Hydroxyzine Hydrochloride

- Trade name products that contain hydroxyzine include: (Atarex) (Anxanil) (ApoHydroxyzine)(Atozine)(EVista)(Hydroxacen)(Hyzine)(Marax) (Mutipax)(Novohydroxyzin)(Quiess)(T.E.H.Tablets)(Theozine)(Vamate) (Vistaject)(Vistaquel)(Vistaril)(Vistazine)(Vistazine 50) (Vistaject-50)(Vistaject-25)

INDICATION

An antihistamine medication with antiemetic properties, used for the symptomatic relief of anxiety and tension associated with psychoneurosis. This medication is also useful to control itching associated with various allergic conditions.

SIDE EFFECTS

Dry mouth, drowsiness are the most commonly reported. Tremors, rash, headache, and seizures have been reported only rarely and with usually higher doses.

INTERACTIONS AND PRECAUTIONS

1. Not considered safe for use in pregnancy or nursing mothers.
2. Alcohol and other sedatives, when used in combination, can potentiate the sedative effects of hydroxyzine.
- * 3. Use with tricyclic antidepressants (Elavil, Sinequan, Desipramine) can result in increased effect of both drugs.
4. Use with carteolol can decrease the antihistamine effect.
5. Use with clozapine may result in a toxic effect on the central nervous system.
6. Use with fluoxetine may increase the depressant effects of both drugs.
7. Use with guanfacine may increase the depressant effects of both drugs.
8. Use with levocouorin may cause adverse reactions.
9. Use with narcotic pain medications can result in oversedation.

USUAL DOSE

Adults:

For anxiety: oral, 50-100 mg as a single dose.

For allergies and nausea: 25-100 mg three to four times a day as needed.

Dr. Schueler's
Corner Drug Store

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

VS.

STEVEN W KRAFCHICK

Alias: NO ALIASES

DOB: 01/06/1965

SBI: 00178856

CASE NUMBER:
0101010946

CRIMINAL ACTION NUMBER:
PN01-01-2351
MURDER 2ND (F)
LIO:MURDER 1ST
IN01-01-2352
PDWDCF (F)

SENTENCE ORDER

NOW THIS 13TH DAY OF FEBRUARY, 2002, IT IS THE ORDER OF
THE COURT THAT:

The defendant is adjudged guilty of the offense(s) charged.
Costs are hereby suspended. Defendant is to pay all
statutory surcharges.

AS TO PN01-01-2351 : TIS
MURDER 2ND

Effective January 16, 2002 the defendant is sentenced
as follows:

The defendant is placed in the custody of the Department
of Correction for 20 year(s) at supervision level 5

- Suspended after serving 20 year(s) at supervision level
5

- Suspended for 6 month(s) at supervision level 2

AS TO IN01-01-2352 : TIS
PDWDCF

The defendant is placed in the custody of the Department
of Correction for 20 year(s) at supervision level 5

APPROVED ORDER 1 July 30, 2002 09:07

- Exhibit - A -

STATE OF DELAWARE
VS.
STEVEN W KRAFCHICK
DOB: 01/06/1965
SBI: 00178856

Probation is consecutive to criminal action number
010102351

SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE
VS.
STEVEN W KRAFCHICK
DOB: 01/06/1965
SBI: 00178856

CASE NUMBER:
0101010946

Pay financial obligations during the probationary period.

Be evaluated for substance abuse and follow any recommendations for counseling, testing or treatment deemed appropriate.

Be assigned to the residential drug/alcohol program until such program is completed.

Be assigned to the outpatient drug/alcohol program until program is completed.

Have no drugs/alcohol during period of sentence unless medically prescribed.

Submit to random urinalysis or such other drug testing as deemed appropriate.

NOTES

6 months at supervision level 2, is pursuant 11 Del.C. ~4204(L).

Defendant is to undergo a mental health evaluation and follow any recommendations for counseling and treatment as deemed appropriate by the Dept. of Corrections.

JUDGE CHARLES H TOLIVER IV

FINANCIAL SUMMARY

STATE OF DELAWARE
VS.
STEVEN W KRAFCHICK
DOB: 01/06/1965
SBI: 00178856

CASE NUMBER:
0101010946

SENTENCE CONTINUED:

TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	
FORENSIC FINE ORDERED	
RESTITUTION ORDERED	.00
SHERIFF, NCCO ORDERED	
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	
PROSECUTION FEE ORDERED	
VICTIM'S COM ORDERED	
VIDEOPHONE FEE ORDERED	2.00
<hr/> TOTAL	<hr/> 2.00

APPROVED ORDER

4

July 30, 2002 09:07

Superior Court of the State of Delaware, NC CountyPLEA AGREEMENTState of Delaware v. Steven KrafchickCase No(s): 0101010946 Cr.A.#s: 1N01-01-2351; 2352; 2517; 2540
2519; 2520; 2521; 2522; 2523Title 11 HAB. OFFENDER ☐ BOOT CAMP ELIGIBLE ☐ INELIGIBLE

RULE 11(e)(1)(C) — If out of guideline, reason is as follows: _____

Title 11, §4336, sex offender notification required ☐ Title 11, §9019(e), forensic fine ☐ \$100(F), ☐ \$50(M)

Defendant will plead guilty to:

Count Cr.A.# Charge [LIO if applicable]

I 1N01-01-2351 Murder 2d [LIO 11 §635]II 1N01-01-2352 PDWD CFUpon the sentencing of the defendant, a nolle prosequi is entered on ☐ the following charges ☒ all remaining charges on this indictment:

Count Cr.A.# Charge

_____Sentence Recommendation/Agreement: ☒ PSI ☒ Immediate Sentencing

State and Defendant agree to the following:

☐ Restitution: _____☐ No _____ contact w/ _____☐ Other Conditions: _____DAG: MARSHA ERSTEIN
PRINT NAMEMarsa Erstein
SIGNATUREDEF. COUNSEL: EC FRANKS
PRINT NAMEEC Franks
SIGNATUREDate: 2/13/02DEFENDANT: Steven Krafchick**A-18**

TRUTH IN SENTENCING GUILTY PLEA FORM
IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

V.

DEF. ID. NO. 0101010946

CR.A. NO. _____

STEVEN KRAFCHEWICZ

Defendant must answer the following questions in his or her own handwriting.

Birth 1/6/65Last grade in school completed 8TH

Have you ever been a patient in a mental hospital?

☒ Yes ☒ No

Are you under the influence of alcohol or drugs at this time?

☐ Yes ☒ No

Did you freely and voluntarily decide to plead guilty to the charges listed in your written plea agreement?

☒ Yes ☐ No

Have you been promised anything that is not stated in your written plea agreement?

☐ Yes ☒ No

Has your attorney, the State or anyone threatened or forced you to enter this plea?

☐ Yes ☒ No

Understand that because you are pleading guilty you will not have a trial and you therefore waive (give up) your constitutional right

- (1) to be presumed innocent until the State can prove each and every part of the charge(s) against you beyond a reasonable doubt;
- (2) to a speedy and public trial;
- (3) to trial by jury;
- (4) to hear and question the witnesses against you;
- (5) to present evidence in your defense;
- (6) to testify or not testify yourself; and,
- (7) to appeal to a higher court?

☐ Yes ☐ No

OFFENSE

STATUTORY PENALTY

TIS GUIDELINE

MURDER 2ND10-2010 yrs Min - MaxROBBERY2-202-5 yrsTOTAL CONSECUTIVE MAXIMUM PENALTY: 12-40 yrs

If you are not a citizen of the United States, you are hereby advised that conviction of the offense for which you have been charged will have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

Do you understand that, if incarcerated, you will not be eligible for parole and the amount of early release credits which you may receive will be limited to a maximum of ninety (90) days per year?

☒ Yes ☐ No

Is there a mandatory minimum penalty?

☒ Yes ☐ No

If so, what is it?

10 yrs, 2 yrs ROBBERY

Has anyone promised you what your sentence will be?

☐ Yes ☒ No

Are you on probation or parole? (A guilty plea may constitute a violation.)

☐ Yes ☒ No

Do you understand that a guilty plea to a felony will cause you to lose your right to vote, to

be a juror, to hold public office, to own or possess a deadly weapon and other civil rights?

☒ Yes ☐ No

Are you satisfied with your lawyer's representation of you and that your lawyer has

fully advised you of your rights and of your guilty plea?

☒ Yes ☐ No

Defense Counsel

EC BALKUSKI

Date

2/13/02

A-19

Print name:

Defendant

STEVEN B KRAFCHEWICZ

Superior Court, Attorney General, Attorney for Defendant, Defendant

IMMEDIATE SENTENCING FORM*

State v. Steven Krafchick Cr.A.# _____ Def.ID (Case#) 01010946

TO BE COMPLETED BY THE DEPUTY ATTORNEY GENERAL

Records of the Attorney General's Office in New Castle County indicate the following convictions since 1976:

0 Number of prior felonies (Specify crime and year of conviction)0 Number of prior non-violent felonies (Specify crime and year of conviction)

9
(1 juv.) Number of prior misdemeanors (Specify crime and year of conviction)

O.t. ('92) ('00) ; disorderly conduct ('97)
poss. alcohol burning ('82) (juv.) ; criminal attempt ('97)
Assault 3rd ('95) ('96)
VOP ('97) ('01)
terroristic threatening ('97)

YES/UNKNOWN
(Circle one)

Was this crime committed while defendant was on release or pending trial/sentencing?

YES/NO
(Circle one)

Will this plea result in an enhanced penalty and/or a minimum mandatory penalty?

YES/NO
(Circle one)

Is a First Offender Program being requested?

_____ DUI _____ Drug _____ Bad Check

M.T. Knoll
(print)
Deputy Attorney General

(sign)

M.T. Knoll

Date

2/13/02

*This form is required for immediate sentencing.

A-48 20

Exceptional Sentences

- * The standard sentence range is presumed to be appropriate for the typical criminal case. The court may impose a sentence outside the standard sentence range for that offense if it finds that there are **substantial and compelling** reasons justifying an exceptional sentence.

The following aggravating and mitigating circumstances for exceptional sentences are provided as examples and are not intended to be exclusive reasons for departure. An aggravating or mitigating circumstance, whether listed below or not, shall only apply if it does not reflect the statutory language defining the current offense, or constitute an element thereof.

- * When an exceptional sentence is decreed, the governing factor(s) leading to the exceptional sentence must be stated for the record, and should be identified in the sentencing order or on the sentencing worksheet.

AGGRAVATING FACTORS For Exceptional Sentences

Violent Felonies Only:

EXCESSIVE CRUELTY

- a. Those facts surrounding the commission of a violent felony which demonstrate such a callousness and cruelty towards the victim as to shock the conscience of the Court. [Standard 4 I.A.(i)]
- b. Allowable Penalty : Up to the statutory maximum for the instant offense.

PRIOR VIOLENT CRIMINAL CONDUCT

- a. Defendant has demonstrated, by his prior criminal history, a propensity for violent criminal conduct. (SEE POLICY NO. 4) [Standard 4 I.A.(i)]
- b. Recommended Penalties :
 1. With two or more prior, separate violent felonies --Up to the statutory maximum.
 2. With one prior violent felony -- up to 50% of the statutory maximum.

Any Offense

Repetitive Criminal Conduct

Definition : Repetitive Criminal Conduct is conviction or adjudication for the same or similar offense on two or more previous, separate occasions. (SEE POLICY NO.

Need For Correctional Treatment

The defendant is in need of correctional treatment which can be most effectively provided if he is placed in total confinement. [Standard 4 I.B]

Undue Depreciation Of Offense

It would unduly depreciate the seriousness of the offense to impose a sentence of other than total confinement. [Standard 4 I.D.]

Major Economic Offense Or Series Of Offenses:

Identified by a consideration of any of the following factors:

- a. The offense involved multiple victims or multiple incidents per victim;
- b. The offense involved attempted or actual monetary loss substantially greater than typical for the offense;
- c. The offense involved a high degree of sophistication or planning, or occurred over a lengthy period of time;
- d. The defendant used his/her position of trust, confidence or fiduciary responsibility to facilitate the offense.

Westlaw.

DE ST TI 11 § 6581
11 Del.C. § 6581

Page 1

C

DELAWARE CODE ANNOTATED
TITLE 11. CRIMES AND CRIMINAL PROCEDURE
PART IV. PRISONS AND PRISONERS
CHAPTER 65. DEPARTMENT OF CORRECTION
SUBCHAPTER X. SENTENCING ACCOUNTABILITY COMMISSION
§ 6581 Sentencing guidelines.

(a) A computer-driven model of proposed sentencing criteria shall be created by March 1, 1985, which will be able to project the effect of alternative policy decisions on the Department of Correction resources. Sentencing guidelines will be drafted with nonbinding pilot testing by July 1, 1985.

The Commission shall submit to the Supreme Court on or before March 1, 1986, sentencing guidelines developed in accordance with § 6580(c) of this title for adoption by Court rule. Such guidelines shall have no force or effect unless so adopted, and shall not in any event authorize or be construed as authorizing the exercise of any power or duty exceeding or conflicting with those heretofore or hereafter granted by act of the General Assembly or pursuant to inherent authority granted under the Delaware Constitution.

(b) The Commission, on or before July 1, 1987, shall recommend to the Governor and the General Assembly legislation necessary for the implementation of the sentencing guidelines.

(c) Consistent with the goals of this subchapter, the sentencing guidelines recommended by the Commission shall:

(1) Formulate a series of sanctions ranging from nonincarcerative to incarcerative. These sanctions may include, but not be limited to, fines, costs, restitution, unsupervised and/or supervised probation, community service, work release and community-based residential and nonresidential programs, work camps and electronic monitoring. These sanctions shall be placed in one or more accountability levels;

* (2) Establish detailed objective criteria to be utilized in determining which offenders shall be assigned to each of the various accountability levels, such criteria to combine factors relating to the nature of the offense, the background and criminal history of the offender and the availability of resources;

* (3) Define under what conditions of aggravation or mitigation and in what manner a sentencing judge may impose a sentence outside of the sentencing guidelines and recommend such mitigating and/or aggravating circumstances; and

* (4) Define under what circumstances, by what process, and by whom offenders may be moved from 1 accountability level to another, subject to any law regulating such movement.

(d) The Commission shall estimate to what extent public and private resources are appropriate and available to meet the specifications and supervision standards necessitated by the population of offenders to be assigned to each level.

(e) The Commission shall define the roles of the various criminal justice agencies in the implementation of the proposed guidelines.

A-17

Westlaw.

DE ST TI 11 § 6581
11 Del.C. § 6581

Page 2

(f) The Commission shall recommend, as appropriate, mechanisms to insure that offenders are assessed a reasonable fee for their supervision and/or treatment.

(g) The Commission shall also recommend a procedure or a tribunal for appellate review by either the defendant or the State when sentences are imposed outside of the guidelines.

(h) The Commission shall have the authority to collect from any state or local governmental entity information, data, reports, statistics or such other material which is necessary to carry out the Commission's functions.

(i) The executive department shall provide staff services for the Commission which shall, for administrative purposes, be placed within that office.

(j) The Commission shall carry out such other duties consistent with its mandate as the General Assembly or the executive department shall from time to time direct.

(64 Del. Laws, c. 402, § 1; 65 Del. Laws, c. 206, § 1.)

<General Materials (GM) - References, Annotations, or Tables>

NOTES, REFERENCES, AND ANNOTATIONS

Failure of Sentencing Accountability Commission to recommend process for appellate review.
-- The General Assembly, rather than the Supreme Court, is the appropriate forum to seek redress from the Sentencing Accountability Commission's apparent failure to carry out its legislative mandate to recommend a process for appellate review of deviations from its guidelines. Siple v. State, Del. Supr., 701 A.2d 79 (1997).

11 Del.C. § 6581, DE ST TI 11 § 6581

Current through 2003 Regular Session of the 142nd General Assembly

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END OF DOCUMENT

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STEVEN W. KRAFCHICK,

Defendant Below-
Appellant,

V.

STATE OF DELAWARE,

Plaintiff Below-
Appellee.

~~~~~

§ No. 555, 2006

§ Court Below—Superior Court  
§ of the State of Delaware,  
§ in and for New Castle County  
§ Cr. ID 0101010946

Submitted: March 7, 2007

Decided: April 26, 2007

Before **HOLLAND, BERGER, and JACOBS**, Justices.

## ORDER

This 26<sup>th</sup> day of April 2007, after careful consideration of appellant's opening brief and the State's motion to affirm, we find it manifest that the judgment of the Superior Court should be affirmed. Although the Superior Court wrongly concluded that appellant's second postconviction motion was untimely, the Superior Court did not err in its alternative conclusions that appellant's claims also were procedurally barred as being repetitive and formerly adjudicated, and appellant had failed to overcome these procedural hurdles.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

Carolyn Berger  
Justice



IN THE SUPREME COURT OF THE STATE OF DELAWARE

555 , 2006

PRO SE  
(DCC/#178856)

STEVEN W. KRAFCHICK,  
Defendant Below,  
Appellant,  
v.

L. C. MEYERS

STATE OF DELAWARE,  
Plaintiff Below,  
Appellee.

DF \$ 00.00

2006

- 1 Oct 12 Notice of appeal from the Order dated 9/20/06 in the Superior Court in and for New Castle County, by Judge Toliver, in Cr. PN01-01-2351R2 and IN01-01-2352R2 with no designation of transcript. (served by mail 10/9/06) (kms)
- 2 Oct 12 Brief schedule issued. (opening brief due 11/27/06) (kms)
- 3 Oct 12 Letter dated 10/12/06 from Senior Court Clerk to Prothonotary, record is due to be filed by 11/6/06. (kms)
- 4 Oct 23 Record as ordered. (kms)
- 5 Nov 13 Motion to proceed in forma pauperis by appellant. (served by mail 11/6/06) (kms)
- 6 Nov 13 Order dated 11/13/06 by Clerk, motion for leave to proceed in forma pauperis is GRANTED. (kms)
- 7 Nov 21 Motion under Rule 15(b) by appellant. (served by mail on mail on 11/20/06) (kms)
- 8 Nov 27 Order dated 11/27/06 by Jacobs, J., appellant's opening brief and appendix are due 02/27/07. There will be no further extensions. (mjd)

2007

- 9 Feb 26 Appellant's opening brief and appendix. (served by hand or mail 2/23/07) (lsb)
- 10 Mar 07 State's motion to affirm. (served by mail on 3/7/07) (475) (brf)
- 11 Mar 19 Motion under Rule 15(b) by appellant. (served by mail 3/15/07) (lsb)
- 12 Mar 20 Letter dated 3/20/07 from Senior Court Clerk to appellant, advising him that he can not respond to the motion to affirm. (lsb)

- 13 Apr 26 Order dated 4/26/07 by Berger, J., AFFIRMED. (RJH, CB, JBJ)  
(brf)
- 14 May 03 Motion for reargument by appellant.  
(served by mail on 4/30/07) (lsb)
- 15 May 03 Letter dated 4/30/07 from appellant to Clerk,  
requesting copy of docket sheet. (copy sent) (lsb)

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

CHARLES H. TOLIVER, IV  
Judge

NEW CASTLE COUNTY COURTHOUSE  
500 NORTH KING STREET, SUITE 10400  
WILMINGTON, DELAWARE 19801-3733  
TELEPHONE (302) 255-0657

September 20, 2006

Mr. Steven W. Krafchick  
SBI# 00178856  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

Re: ***State v. Steven W. Krafchick***  
**(I.D. No.: 0101010946)**  
**Cr. A. No.: PN01-01-2351R2 and IN01-01-2352R2**

Dear Mr. Krafchick:

You filed the instant Rule 61 Motion for Postconviction Relief, on March 22, 2006. Like your first such motion filed March 8, 2005, this motion was based on the forty year prison sentence you received for Murder Second Degree and Possession of a Deadly Weapon During the Commission of a Felony. That which follows is the Court's response to the issues so presented.

First, you contend that the Court, after receiving information that you were under the influence of medications, i.e., Sinequan and Vistaril, abused its discretion by failing to conduct a competency hearing before accepting your guilty plea. Second, you maintain that the Court violated your Fourteenth Amendment and Sixth Amendment rights when it considered during sentencing that the offenses committed were linked to domestic violence.

B10



Page Two

**Re: *State v. Steven W. Krafchick***  
**(I.D. No.: 0101010946)**  
**Cr. A. No.: PN01-01-2351R2 and IN01-01-2352R2**

In response, the State opposes your motion along three procedural lines. First, it is asserted that your motion is barred by Rule 61(i)(1) since it was filed more than one year after your judgment of conviction was final. Second, it is argued that repetitive motions are generally barred since any grounds for relief not asserted in a prior proceeding are barred by Rule (61)(i)(2). Third, the State argues that Rule 61(i)(4) bars your motion since the Court may not reexamine issues that have been previously adjudicated. And the State further contends that you have failed to show prejudice which in the interest of justice should lift the procedural bars or present a colorable constitutional claim warranting consideration because of a miscarriage of justice affecting the proceedings leading to your conviction.

As the Court has held on numerous occasions, a predicate to addressing the merits of your contentions is an examination to determine whether any procedural bars exist. The procedural bars set forth in Rule 61(i)(1)-(4) may only be lifted if there is a mechanism to do so in the pertinent subsection of Rule 61.<sup>1</sup> If there is no relief there, the "catchall" provision of Rule 61(i)(5) can provide relief from procedural bars contained in Rule

---

<sup>1</sup> A motion for postconviction relief filed after July 1, 2005, may be filed no more than one year after the judgment of conviction is final or, if it asserts a retroactively applicable right that is newly recognized after the judgment is final, no more than three years after the right is first recognized by the Supreme Court of Delaware or by the United State Supreme Court. Super. Ct. Crim. R. 61(i)(1). Grounds not presented in prior postconviction proceedings or formerly adjudicated claims are barred unless consideration of the claim is warranted in the interest of justice. Super. Ct. Crim. R. 61(i)(2) & (4). Likewise, any ground for relief not asserted in the proceedings leading to the judgement of conviction are barred unless the movant shows cause for relief and prejudice. Super. Ct. Crim. R. 61(i)(3).

Page Three

Re: ***State v. Steven W. Krafchick***

(I.D. No.: 0101010946)

Cr. A. No.: PN01-01-2351R2 and IN01-01-2352R2

61(i)(1)-(3).

To be specific, Rule 61(i)(5) provides that the aforementioned bars may be raised where the defendant establishes a colorable claim that there has been a "miscarriage of justice" under Rule 61(i)(5). A colorable claim of "miscarriage of justice" occurs when there is a constitutional violation that undermines the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.<sup>2</sup> This exception to the procedural bars is very narrow and is only applicable in very limited circumstances.<sup>3</sup> The defendant bears the burden of proving that he has been deprived of a "substantial constitutional right."<sup>4</sup>

Unfortunately for you, the merits of your claims will not be reached by the Court. In the first instance, you abandoned any rights you may have had in those regards when you knowingly and voluntarily plead guilty to the charges then pending against you. A legion of Delaware cases instruct that by pleading guilty, all alleged pretrial defects are cured and any such claims are waived by the entry of a guilty plea.<sup>5</sup> Here, on February 13, 2002, after your trial started, the Court accepted your plea after a lengthy colloquy

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<sup>2</sup> Super. Ct. Crim. R. 61(i)(5).

<sup>3</sup> *Younger v. State*, 580 A.2d 552, 555 (Del. 1990).

<sup>4</sup> *Id.*

<sup>5</sup> *State v. Waters*, 2000 WL 305346 (Del. Super.); *Kennedy v. State*, 667 A.2d 1319 (Del. 1995); *State v. Moreno*, 2001 WL 112065 (Del. Super.); *State v. Foster*, 2001 WL 1628310 (Del. Super.), *aff'd* 791 A.2d 750 (Del. 2002); *State v. Ayers*, 802 A.2d 278 (Del. Super. Ct. 2002).

Page Four

Re: ***State v. Steven W. Krafchick***

**(I.D. No.: 0101010946)**

**Cr. A. No.: PN01-01-2351R2 and IN01-01-2352R2**

between you and the Court. The Court was made aware of the issues surrounding your mental health and reviewed the reports of at least two mental health professionals who evaluated you. You were given an opportunity to discuss the plea with your defense counsel and then you accepted the plea without hesitation. You also completed the Truth-in-Sentencing Guilty Plea Form and the Plea Agreement Form, which acknowledge that you understood the proceedings and knowingly and voluntarily waived any trial and/or constitutional rights that might have applied.

Your motion is further barred for at least three others reasons.

First, a motion for postconviction relief filed after July 1, 2005, may be filed no more than one year after the judgment of conviction is final or, if it asserts a retroactively applicable right that is newly recognized after the judgment is final, no more than three years after the right is first recognized by the Supreme Court of Delaware or by the United State Supreme Court.<sup>6</sup> Your plea was formerly entered on February 13, 2002. You subsequently filed this motion on March 22, 2006. That filing occurred over three years after your conviction thus, your motion is procedurally barred by Rule 61(i)(1).

Second, you filed a previous Rule 61 postconviction motion since your conviction four years ago. That motion was denied by this Court on March 8, 2005, and the decision was affirmed by the Supreme Court on February 3, 2006. Under Rule 61(i)(4), "any

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<sup>6</sup> Super. Ct. Crim. R. 61(i)(1).

Page Five

Re: ***State v. Steven W. Krafchick***

**(I.D. No.: 0101010946)**

**Cr. A. No.: PN01-01-2351R2 and IN01-01-2352R2**

ground for relief that was formerly adjudicated, whether in the proceeding leading to the judgment of conviction, in an appeal, [or] in a postconviction proceeding . . . , is thereafter barred, unless reconsideration of the claim is warranted in the interests of justice.”<sup>7</sup> Since the instant postconviction motion appears to raise issues that were previously denied on March 8, 2005, you are therefore barred from reasserting these claims. Nor have you provided any basis upon which this Court could conclude that it is in the interests of justice to revisit the issues you have raised.

Third, grounds not presented in proceedings below leading to the judgment of conviction or prior postconviction proceedings are barred unless consideration of the claim is warranted in the interest of justice.<sup>8</sup> As a result, the Court is prohibited by Rule 61(i)(2) from considering issues so proffered in your motion which are now being presented for the first time.

Having examined the record in light of your complaints, it is apparent that none of the circumstances leading up to and culminating in the entry of your plea suggest that there is sufficient cause or prejudice to warrant such relief, therefore, the exception contained in Rule 61(i)(3) is not applicable. Nor do I find that the Court’s failure to conduct a competency hearing, or the fact that the Court considered during your sentencing that

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<sup>7</sup> Super. Ct. Crim. R. 61(i)(4).

<sup>8</sup> Super. Ct. Crim. R. 61(i)(2) & (4).



Page Six

Re: ***State v. Steven W. Krafchick***

(I.D. No.: 0101010946)


Cr. A. No.: PN01-01-2351R2 and IN01-01-2352R2

your conduct constituted domestic violence, establishes a "colorable claim" sufficient to show a "miscarriage of justice" as Rule 61(i)(5) demands. In fact, the Supreme Court affirmed your conviction and sentence on May 29, 2003, after this Court stated its reasons for your sentence with particularity. "The interests of justice" do not, as a result, require further review of the claims you have asserted.

For all the reasons set forth above, the Court must conclude that your motion must be, and hereby is, **denied**.

**IT IS SO ORDERED.**

Sincerely yours,



Charles H. Toliver, IV  
Judge

CHT,IV/lat

cc: Prothonotary

cc: Maria T. Knoll, Esquire  
Investigative Services

B15

IN THE SUPREME COURT OF THE STATE OF DELAWARE

124 , 2005

PRO SE  
(DCC - #00178856)

STEVEN W. KRAFCHICK,  
Defendant Below,  
Appellant,  
v.

T. J. DONOVAN

STATE OF DELAWARE,  
Plaintiff Below,  
Appellee.

DF \$ 00.00

2005

- 1 Apr 01 Notice of appeal from the order dated 3/8/05, in the Superior Court in and for New Castle County, by Judge Toliver, in Cr.ID No. 0101010946. (served by mail 3/31/05) (eas)
- 2 Apr 01 Statement Pursuant to Rule 9 (e) in Lieu of Ordering Transcript of Proceedings Below. (served by mail 3/31/05) (eas)
- 3 Apr 01 Motion to proceed in forma pauperis by appellant. (served by mail 3/31/05) (eas)
- 4 Apr 01 Order dated 4/1/05 by Clerk, appellant's motion to proceed in forma pauperis is GRANTED, limited only to waiver of docketing fee. (eas)
- 5 Apr 01 Brief schedule issued. (opening brief due 5/16/05) (eas)
- 6 Apr 01 Letter dated 4/1/05 from Senior Court Clerk to Prothonotary, record is due to be filed by 4/25/05. (eas)
- 7 Apr 21 Record as ordered. (eas)
- 8 Apr 28 Motion under Rule 15(b) by appellant. (served by mail 4/25/05) (eas)
- 9 May 02 Order dated 5-2-05 by Ridgely, J., appellant's opening brief and appendix are due 6-15-05. (clh)
- 10 Jun 02 Motion under Rule 15(b) by appellant. (served by mail 5/31/05) (eas)
- 11 Jun 06 Order dated 6//6/05 by Holland, J., appellant's opening brief and appendix are due 7/15/05. (eas)
- 12 Motion for Extension of Time to File by appellant. (served by mail 6/29/05) (eas)  
Order dated 7/5/05 by Berger, J., appellant's opening

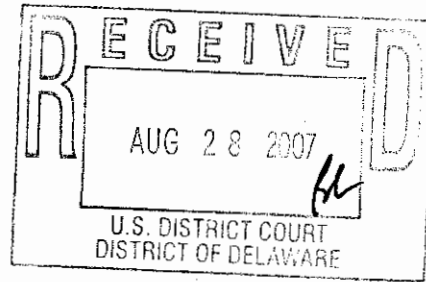
brief and appendix are due 8/1/05. No further extensions will be granted. (filed on 7/5/05) (rdd).

- 14 Jul 25 Appellant's opening brief and appendix. (served by mail 7/22/05) (clh)
  - 15 Jul 29 Letter dated 7/27/05 from appellant to Clerk, enclosing appellant's brief corrections (served by mail 7/27/05) (eas)
  - 16 Aug 16 Letter dated 8/12/05 from appellant to Clerk, requesting a docket sheet. (sent) (eas)
  - 17 Aug 24 Appellee's answering brief. (served by mail 08/24/05) (mjd)
  - 18 Aug 30 Motion for an Extension of Time Under Rule 15(b) by appellant. (served by mail 8/26/05) (eas)
  - 19 Sep 01 Order dated 09/01/05 by Jacobs, J., appellant's reply brief and appendix are due 10/09/05. (mjd)
  - 20 Sep 22 Appellant's reply brief and appendix. (served by mail 9/20/05) (eas)
  - 21 Oct 28 Notice dated 10-28-05 from Clerk to parties, the case will be submitted for decision on briefs as of 11-4-05. (clh)
  - 22 Nov 03 Letter dated 11/1/05 from appellant to Clerk, requesting a docket sheet and advising that his last letter requesting a docket sheet had the wrong case number on it. (docket sheet sent) (eas)
- 2006
- 23 Jan 17 Order dated 01/17/06 by Berger, J., AFFIRMED (MTS,CB, JBJ) (mfm)
  - 24 Jan 26 Motion for Reargument with Exhibits. (served by mail 1/24/06) (eas)
  - 25 Jan 31 Order dated 1/31/06 by Steele, C.J., appellant's Motion for Reargument is DENIED. (MTS,CB,JBJ) (eas)
  - 26 Feb 02 Record and mandate to clerk of court below. Case Closed (afb).
  - 27 Feb 09 Prothonotary's receipt of record and mandate on 2-3-06. (clh)
- 2007
- 28 May 03 Letter dated 4/30/07 from appellant to Clerk, requesting copy of docket sheet. (copy sent) (lsb)

Westlaw.

892 A.2d 1084

892 A.2d 1084, 2006 WL 141044 (Del.Supr.)  
(Cite as: 892 A.2d 1084)



Page 1

Briefs and Other Related Documents  
Krafchick v. State Del.Supr., 2006. (The decision of  
the Court is referenced in the Atlantic Reporter in a  
'Table of Decisions Without Published Opinions.')

Supreme Court of Delaware.  
Steven W. KRAFCHICK, Defendant  
Below-Appellant,  
v.

STATE of Delaware, Plaintiff Below-Appellee.  
No. 124,2005.

Submitted Nov. 4, 2005.

Decided Jan. 17, 2006.

Reargument Denied Jan. 31, 2006.

Del.Supr., 2006.

Krafchick v. State

892 A.2d 1084, 2006 WL 141044 (Del.Supr.)

Briefs and Other Related Documents (Back to top)

- 2005 WL 3074859 (Appellate Brief) Appellant's Reply Brief (Sep. 20, 2005) Original Image of this Document (PDF)
- 2005 WL 2312613 (Appellate Brief) State's Answering Brief (Aug. 24, 2005) Original Image of this Document with Appendix (PDF)
- 2005 WL 2397174 (Appellate Brief) Appellant's Opening Brief (Jul. 22, 2005) Original Image of this Document with Appendix (PDF)

END OF DOCUMENT

Court Below-Superior Court of the State of  
Delaware in and for New Castle County, Cr. ID No.  
0101010946.

Before STEELE, Chief Justice, BERGER and  
JACOBS, Justices.

#### ORDER

\*1 This 17<sup>th</sup> day of January 2006, upon  
consideration of the briefs of the parties and the  
record below, it appears to the Court that the  
judgment of the Superior Court with respect to the  
appellant's ineffective assistance of counsel claims  
should be affirmed on the basis of and for the  
reasons set forth in its decision dated March 8,  
2005. The appellant's additional claims of error and  
abuse of discretion on the part of the trial court  
were not presented to the Superior Court in the first  
instance and, therefore, will not be considered in  
this appeal.<sup>FN1</sup>

FN1. Supr. Ct. R. 8.

\*1 NOW, THEREFORE, IT IS ORDERED that the  
judgment of the Superior Court is AFFIRMED.

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EX.C



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Page 1

Not Reported in A.2d, 2005 WL 697940 (Del.Super.)  
(Cite as: Not Reported in A.2d)

State v. Krafchick Del.Super., 2005. Only the  
Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT  
RULES BEFORE CITING.

Superior Court of Delaware.

STATE of Delaware,

v.

Steven W. KRAFCHICK, Defendant.

Submitted Nov. 15, 2004.

Decided March 8, 2005.

On the Defendant's Motion for Post-conviction  
Relief.

Steven W. Krafchick, Smyrna, Delaware, for  
Defendant.

#### OPINION AND ORDER

TOLIVER, J.

\*1 Presently before the Court is the motion filed by  
the Defendant, Steven W. Krafchick, seeking  
post-conviction relief pursuant to Superior Court  
Criminal Rule 61.

#### FACTS AND PROCEDURAL POSTURE

\*1 On February 26, 2001, the Defendant was  
indicted by the grand jury and charged with Murder  
First Degree and related offenses arising out of the  
death of his wife, Dawn Krafchick. There was no  
dispute about the fact that both were employed at  
the Manor Park Restaurant in New Castle,  
Delaware, where Ms. Krafchick was stabbed to  
death by the Defendant on January 15, 2001. Trial  
began with jury selection on February 5, 2002 and  
continued until February 13, 2002, when the  
Defendant elected to enter a plea to Murder Second  
Degree and Possession of a Deadly Weapon During  
the Commission of a Felony.

\*1 Following the entry of his pleas, the Defendant

asked the Court to order a pre-sentence  
investigation prior to imposing the sentence. The  
Court declined to do so, and over the objection of  
the defense, the Court proceeded to impose  
sentence. Specifically the Defendant was sentenced  
to a total of forty years in prison followed by six  
months of probation. Thirty of the forty years were  
to be served as a period of mandatory incarceration.  
FN1 The Defendant's motion to reduce or otherwise  
modify the sentence imposed was denied by this  
Court on May 24, 2002.

FN1. The Sentencing Accountability  
Commission ("SENTAC") guidelines  
recommended ten years for the conviction  
of Murder Second Degree and two to five  
years on the PDWDCF conviction. See  
Del. Sent'g Accountability Comm. 2002  
Benchbook 19-20. The recommendations  
were not binding on the Court. The  
minimum sentences to be served by statute  
were and are ten and two years  
respectively on those offenses. See 11 Del.  
C. §§ 635 & 4205(b)(2).

\*1 The Defendant then lodged an appeal with the  
Delaware Supreme Court. On December 16, 2002,  
this case was remanded to allow this Court to set  
forth with particularity the reasons for imposing a  
sentence that exceeded the SENTAC guidelines. A  
response to the order of remand was filed on  
February 28, 2003. The Defendant's conviction and  
sentence were affirmed by the Supreme Court on  
May 29, 2003.

\*1 The Defendant filed the instant motion on May  
7, 2004 seeking to withdraw his pleas and  
presumably proceed to trial once more. FN2 An  
exchange of briefs and memoranda followed.  
Having now had the opportunity to review those  
submissions, that which follows is the Court's  
response to the issues so presented.

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(Cite as: Not Reported in A.2d)

FN2. It appears Defendant is attempting to withdraw his guilty plea based upon the standard set forth in Superior Court Criminal Rule 32(d). Def. Mot., D.I. 58, at 2, 3. Defendant claims he should be allowed to withdraw his guilty plea for any "fair and just reason". Super. [Cite]. Crim. Rule 32(d). Rule 32(d) states that the standard of "fair and just reason" is only applicable to withdrawing a guilty plea before sentencing occurs. Defendant was sentenced in February of 2002, over three years ago. The only avenue available to defendant at this time is a post conviction motion under Rule 61. See, Super. [Cite]. Crim. Rule 61(a)(1).

#### DISCUSSION

\*1 Before the Court can reach the merits of a motion for post-conviction relief, the movant must first overcome the substantial procedural bars contained in Superior Court Criminal Rule 61(I).<sup>FN3</sup> Under Rule 61(I)(1), post-conviction claims for relief must be brought within three years of the movant's conviction becoming final.<sup>FN4</sup> Further, any ground for relief not asserted in a prior post-conviction motion is thereafter barred unless consideration of the claim is necessary in the interest of justice.<sup>FN5</sup> Similarly, grounds for relief not asserted in the proceedings leading to judgment of conviction are thereafter barred, unless the movant demonstrates: (1) cause for the procedural default, and (2) prejudice from any violation of the movant's rights.<sup>FN6</sup> Any ground for relief that was formerly adjudicated in the proceedings leading to judgment of conviction or in a prior post-conviction proceeding is thereafter barred from consideration.<sup>FN7</sup>

FN3. *Flamer v. State*, 585 A.2d 736, 745 (Del.1990); *Younger v. State*, 580 A.2d 552, 554 (Del.1990); *Saunders v. State*, 1995 WL 24888, at \*1 (Del.Super.).

FN4. Super. Ct.Crim. R. 61(i)(1).

FN5. Super. Ct.Crim. R. 61(i)(2).

FN6. Super. Ct.Crim. R. 61(i)(3).

FN7. Super. [Cite]. Crim. R. 61(I)(4).

\*2 The procedural bars set forth in Rule 61(I)(1)-(4) may be lifted if the defendant establishes a colorable claim that there has been a "miscarriage of justice" under Rule 61(I)(5). A colorable claim of "miscarriage of justice" occurs when there is a constitutional violation that undermines the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.<sup>FN8</sup> This exception to the procedural bars is very narrow and is only applicable in very limited circumstances.<sup>FN9</sup> The defendant bears the burden of proving that he has been deprived of a "substantial constitutional right."<sup>FN10</sup> A claim of ineffective assistance of counsel in violation of the Sixth Amendment to the United States Constitution, by its very nature, qualifies as just such an exception.<sup>FN11</sup>

FN8. Super. [Cite]. Crim. R. 61(I)(5).

FN9. *Younger*, 580 A.2d at 555.

FN10. *Id.*

FN11. *Mason v. State*, 725 A.2d 442 (Del.1999); *State v. McRae*, 2002 WL 31815607, at \*5 (Del.Super.[Cite].).

\*2 Under the standard outlined in *Strickland v. Washington*,<sup>FN12</sup> two factors must be established in order to prevail on a claim of ineffective assistance of counsel. First, the Defendant must demonstrate that counsel's representation fell below an objective standard of reasonableness. Second, he or she must show that counsel's actions were prejudicial to the defense, creating a reasonable probability that, but for counsel's error, the result of the proceeding would have been different.<sup>FN13</sup> The *Strickland* standard is highly demanding and under the first prong of the test, there is a "strong presumption that the representation was professionally reasonable."<sup>FN14</sup> The Defendant must also "[o]vercome the presumption that, under the circumstances, the challenged action might be

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(Cite as: Not Reported in A.2d)

considered sound trial strategy.” FN15

FN12. 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674, (1984).

FN13. *Id.* at 694.

FN14. *Stone v. State*, 690 A.2d 924, 925 (Del.1996); *Flamer*, 585 A.2d at 753.

FN15. *Strickland*, 466 U.S. at 689.

\*2 In the instant case, the Defendant's motion was filed well within the statutorily prescribed time period. This is also the first post-conviction relief sought by the Defendant and therefore raises no issues from a prior adjudication or motion. The Court must therefore proceed to examine the merits of the Defendant's claims, all of which appear to allege ineffective assistance of counsel. Unfortunately for the Defendant, they are all without merit.

\*2 The Defendant raises three primary arguments in his motion relating to ineffective assistance of counsel. First, he alleges that due to ineffectiveness of his attorney, he was coerced and acted under duress at the time he entered his guilty plea. As a result, the plea was not entered knowingly and voluntarily. Second, the Defendant contends his attorney failed to investigate his case and develop mitigating evidence to support the contention that he acted under extreme emotional distress. Third, the Defendant alleges that defense counsel allowed the Court to enter a disproportionate sentence and therefore was ineffective. As a result of those transgressions, individually and collectively, the plea was not knowingly and voluntarily entered.

\*2 Defendant's first claim of ineffective assistance of counsel is without factual support in the record. While the Defendant argues his counsel did not communicate with him throughout the plea negotiations, it appears that the Defendant's attorney fully informed the Defendant of all negotiations with the State regarding the plea agreement and their implications. In fact, the Defendant's attorney asserts that it was the Defendant who asked counsel

to approach the State about the possibility of a plea bargain. The Defendant's attorney also contends that the Defendant spoke with his family and was given the opportunity to “sleep on it” the night before making the final decision regarding his guilty pleas. The Defendant has not denied these assertions or offered any evidence to the contrary.

\*3 Before the Defendant entered his pleas, he and the Court engaged in a colloquy.<sup>FN16</sup> The following portion of that exchange is particularly helpful in addressing the Defendant's argument in this regard:

FN16. The plea colloquy was conducted pursuant to Super [Cite]. Crim Rule. 11.

\*3 THE COURT: ... Do you understand that you had a right, and you're giving up by pleading guilty; you will not have a trial and you waive or give up your constitutional right to be presumed innocent, to a speedy and public trial, to a trial by jury, to hear and question the witnesses against you, to present evidence in your defense, to testify or not to testify, and to appeal to a higher court? Do you understand that?

\*3 THE DEFENDANT: Yes Sir.

\*3 THE COURT: Sir, do you have any questions regarding either document or any other aspect of this matter?

\*3 THE DEFENDANT: No, Your Honor.

\*3 THE COURT: Is anybody forcing you to do this, sir?

\*3 THE DEFENDANT: No, sir

\*3 THE COURT: Are you doing this of your own free will?

\*3 THE DEFENDANT: Yes, sir.

\*3 THE COURT: Have you fully discussed this matter with your attorneys and are you satisfied with their representation?

\*3 THE DEFENDANT: Yes, sir.

\*3 THE COURT: And, again, do you have any questions for the Court regarding any aspect of this matter?

\*3 THE DEFENDANT: Just have mercy on me, sir.



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(Cite as: Not Reported in A.2d)

\*3 THE COURT: Do you understand the consequences of what you are doing?

\*3 THE DEFENDANT: Yes, sir.

\*3 THE COURT: Now, Mr. Krafchick, I'm going in terms of a plea itself, I know you discussed it with your attorneys and I know, indeed, according to Mr. Pankowski, you proposed it or at one point had considered it previously. And I believe your plea is a knowing and intelligent and voluntary one, given the circumstances, and I do so accept the same....<sup>FN17</sup>

FN17. Plea Tr., at 6-8.

\*3 The Defendant argues that he would have answered differently but did not understand the colloquy because of the ineffective assistance he received from his attorney. The Defendant is nevertheless bound by his statements unless he offers evidence which would invalidate the same.<sup>FN18</sup> Because the Defendant is again unable to direct the Court's attention to any such evidence in the record, he can not escape the effect of the representations he made to the Court. Nor has he been able to explain exactly how and/or why he was confused.

FN18. *Bruno v. State*, 758 A.2d 933 (Del.2000); *Fullman v. State*, 560 A.2d 490 (Del.1989).

\*3 In light of these circumstances, the Court must conclude that the Defendant's attorneys acted reasonably under the circumstances and that the result would not have been different if counsel's performance was deemed to have been somehow deficient. The Court finds that the plea was knowingly and voluntarily entered. They were not the product of coercion or anything other than the exercise of free will by the Defendant.

\*3 The Defendant's second challenge involves the claim that his psychological health was not properly investigated by counsel and presented at trial. The Defendant contends that if he had continued with his trial and called the appropriate witnesses,

including himself, the jury would have been convinced of his "extreme emotional distress." That contention is simply not persuasive.

\*4 The witnesses were not called because the Defendant entered a plea prior to the presentation of any defense in his case. What the Defendant would or could have put before the jury at this point is at best conjecture and is not supported by the record. He elected not to proceed and must live with that choice.

\*4 In addition, defense counsel retained two psychological experts, Dr. Mandel Much and Dr. Carole Tavani. The prosecution hired its own expert, Dr. David Raskin. All were hired to evaluate the defendant's psychological status as it pertained to the commission of Ms. Krafchick's homicide. These evaluations were thoroughly reviewed by both sides along with the Court as noted in the Court's response to order of remand.<sup>FN19</sup> The defense concluded that the testimony anticipated by its experts might not carry the day on that issue and rather than risk a conviction, the Defendant opted to enter the plea to a lesser charge.

FN19. Resp. to Order of Remand, at 5, J. Toliver (Feb.2003).

\*4 Again, given this context, the Court cannot conclude that this representation offered by defense counsel was inadequate or professionally deficient. The Defendant has failed to establish that but for counsel's advice the outcome would have been different. Lastly, there is no basis to conclude that the Defendant's plea was not voluntarily or freely entered based upon the failure to use the above mentioned psychological evidence differently.

\*4 Defendant's third argument attacks the overall effectiveness of his counsel. It is at this point that he contends, relying on *Blakely v. Washington*,<sup>FN20</sup> that because he was sentenced outside of guidelines provided by SENTAC, his sentence was illegal. He places the blame for that transgression on his attorney and asks that his sentence be vacated as a result.



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(Cite as: Not Reported in A.2d)

FN20. 124 S. [Cite]. 2531 (2004)

\*4 It is well-settled Delaware law that a sentence within the statutory limits prescribed by the General Assembly does not give rise to a legal or constitutional right of appeal.<sup>FN21</sup> Moreover, and as noted above, the fact that the Defendant was sentenced outside of SENTAC guidelines was specifically addressed by the Delaware Supreme Court in its order of remand to which this Court responded. The Supreme Court found no error when it affirmed the Defendant's conviction and sentence. Furthermore, unlike the Washington State guidelines at issue in *Blakely*, the sentencing standards established by SENTAC are non-binding and voluntary.<sup>FN22</sup> Consequently, the decision in *Blakely* has no effect on the present case.<sup>FN23</sup>

FN21. *Mayes v. State*, 604 A.2d 839, 845 (Del.1992); *Gaines v. State*, 571 A.2d 765, 766-67 (Del.1990).

FN22. *Benge v. State*, 826 A.2d 385, (Del.2004); *Walls v. State*, 2005 WL 277916 (Del.).

FN23. *See, Blakely*, 124 S. [Cite]. 2531.

\*4 To the extent that the Defendant claims that the Court's sentence was illegal or that defense counsel's representative contributed to the alleged miscarriage of justice, he is simply incorrect. Defense counsel asked that sentencing be postponed and a pre-sentence investigation be conducted. The Court declined to do so for reasons clearly stated on the record. Counsel argued for the minimum sentence allowed but was not able to persuade the Court to adopt his argument. There was nothing more that could have been done.

\*5 As the Court has concluded with regard to the Defendant's other arguments, the Defendant has not met the standard pronounced in *Strickland* relative to this argument. The Defendant has not shown how defense counsel's representation fell below an objective standard of reasonableness in anything other than vague and conclusory statements. He is not, as a consequence, able to overcome the strong

presumption that counsel's actions were proper. Even if the Defendant could have proven that defense counsel's actions were lacking, he has offered no credible evidence that the outcome of the trial would have been different if counsel had acted differently.

\*5 No matter how the Defendant's challenges to his conviction and sentence are viewed, whether separately or together, he is not entitled to the relief sought. His right to counsel was not abridged and his treatment during the course of the instant prosecution was not otherwise subject to sanction.

#### CONCLUSION

\*5 For the foregoing reasons, the Defendant's motion for post-conviction relief must be, and hereby is, denied.

\*5 IT IS SO ORDERED.

Del.Super.,2005.  
State v. Krafchick  
Not Reported in A.2d, 2005 WL 697940  
(Del.Super.)

END OF DOCUMENT

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823 A.2d 491

Page 1

823 A.2d 491, 2003 WL 21054791 (Del.Supr.)  
(Cite as: 823 A.2d 491)

Krafchick v. StateDel.Supr.,2003.(The decision of  
the Court is referenced in the Atlantic Reporter in a  
'Table of Decisions Without Published Opinions.')

Supreme Court of Delaware.

Steven KRAFCHICK, Defendant Below, Appellant,

v.

STATE of Delaware, Plaintiff Below, Appellee.

No. 135,2002.

Submitted May 6, 2003.

Decided May 8, 2003.

Court Below: Superior Court of the State of  
Delaware in and for New Castle County, Cr. I.D.  
No. 0101010946.

Before HOLLAND, BERGER and STEELE,  
Justices.

#### ORDER

\*1 This 8<sup>th</sup> day of May, 2003, the Court, having  
considered this matter on the briefs of the parties,  
and having concluded that the same should be  
affirmed on the basis of the trial court's Response to  
Order of Remand dated February 28, 2003;

\*1 NOW, THEREFORE, IT IS HEREBY  
ORDERED that the judgment of the Superior Court  
be, and the same hereby is

\*1 AFFIRMED.

Del.Supr.,2003.

Krafchick v. State

823 A.2d 491, 2003 WL 21054791 (Del.Supr.)

END OF DOCUMENT

EX.A

IN THE SUPREME COURT OF THE STATE OF DELAWARE

135 , 2002

E. C. PANKOWSKI

STEVEN KRAFCHICK,  
Defendant Below,  
Appellant,  
v.

T. J. DONOVAN

STATE OF DELAWARE,  
Plaintiff Below,  
Appellee.

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2002

- 1 Mar 18 Letter dated 03/14/02 from Steven Krafchick to the Court informing the Court that he wishes to appeal. (served by mail 03/14/02) (mfm) (afb).
- 2 Mar 20 Notice to show cause issued to appellant. (clh)
- 3 Apr 01 Answer and Notice to Show Cause by Appellant. (served by mail 03/28/02) (mfm)
- 4 Apr 01 Appellant's certified receipt of notice to show cause on 3/25/02. (eas)
- 5 Apr 15 Letter dated 4-15-02 from Clerk to Loren C. Meyers, Esquire, requesting an answer to the appellant's answer to be filed no later than 4-29-02. (clh)
- 6 Apr 23 Letter dated 4/17/02 from appellant to Edward Pankowski and Court, regarding a 26(c) brief. (eas)
- 7 Apr 25 State's Memorandum in Support of Dismissal. (served by mail 04/25/02) (mfm)
- 8 May 03 Letter dated 5/3/02 from Assistant Clerk to Edward C. Pankowski, Esq. directing him to recognize his continuing obligation to represent Steven Krafchick on appeal by 5/13/02 and discharging the notice to show cause (afb).
- 9 May 06 Appellant's Reply to the State's Memorandum in Support of Dismissal. (served by mail 05/03/02) (mfm)
- 10 May 15 Formal Notice of Appeal from the Order dated 02/13/02 in Superior Court in and for New Castle County, by Judge Toliver, in Cr. A. No. IN01-01-2351, ID No. 0101010946, with designation of transcript. (served by hand 05/15/02) (mfm)
- 11 May 15 Directions to court reporter of proceedings below to be transcribed pursuant to Rule 9(e) by appellant. (service shown on court reporter by mail 05/15/02) (mfm)

12 May 17 Letter dated 5-17-02 from Clerk to Kathleen Feldman, the transcript is due to be filed by 6-27-02. (clh)

13 Jun 10 Letter dated 6/7/02 from Steven Krafchick to Clerk, requesting a docket sheet. (sent) (eas)

14 Jun 26 Letter dated 6/23/02 from Steven Krafchick to Clerk, enclosing a copy of a letter to Edward Pankowski, Esquire, regarding his appeal. (eas)

15 Jul 01 Letter dated 6/26/02 from John P. Donnelly to Chief Deputy Clerk, requesting an extension to file the transcript. (eas)

16 Jul 01 Letter dated 7/1/02 from Senior Court Clerk to John P. Donnelly, granting an extension to file the transcript by 7/29/02. (eas)

17 Jul 12 Court reporter's final transcript log entry: Prothonotary received 7/10/02. (eas)

18 Jul 12 Letter dated 7/12/02 from Senior Court Clerk to Prothonotary, record is due to be filed by 7/22/02. (eas)

19 Jul 19 Record w/ transcript. (mfm)

20 Jul 22 Brief schedule issued. (opening brief due 8-19-02) (clh)

21 Aug 22 Brief delinquency notice dated 8/22/02 from Chief Deputy Clerk to appellant. (dlw)

22 Aug 23 Memo dated 08/23/02 from Clerk to Edward C. Pankowski, Esquire, rejecting the untimely filed opening brief and appendix. (mfm)

23 Aug 27 Letter dated 08/27/02 from J. Brendan O'Neill, Esquire to Clerk requesting that Edward Pankowski, Esquire be permitted to address the attempted late filing of his opening brief on 9/5/02 (service shown) (mfm) (afb).

24 Sep 04 Motion under Rule 15(b) by appellant. (served by mail 09/04/02) (mfm)

25 Sep 06 Letter dated 9-6-02 from Clerk to appellant, stating that the Court will accept his opening brief and appendix for filing, however, he must also file a letter stating the reasons for his failure to file the brief in a timely manner. (clh)

26 Sep 09 Appellant's opening brief and appendix. (served by hand 09/05/02) (mfm)

27 Sep 09 Letter dated 8/30/02 from Steven Krafchick, regarding his appeal. (eas)

28 Sep 10 Letter dated 9-10-02 from Clerk to Edward Pankowski,



Esquire, forwarding Mr. Krafchick's letter for appropriate disposition. (clh)

- 29 Sep 11 Letter dated 09/11/02 from Edward C. Pankowski, Esquire to Clerk stating that appellant's opening brief was filed late due to the re-location of his office. (service shown) (mfm)
- 30 Sep 13 Brief deficiency notice dated 9/13/02 from Assistant Clerk to appellant (corrections due 9/20/02) (afb).
- 31 Sep 18 Letter dated 09/17/02 from Edward C. Pankowski, Esquire to Assistant Clerk referencing brief deficiency. (service shown) (mfm)
- 32 Sep 20 Letter dated 9/20/02 from Assistant Clerk to appellant requesting that he file an amended statement of facts with supporting references by 9/27/02 (afb).
- 33 Sep 25 Letter dated 9/20/02 from Steven Krafchick to Clerk, enclosing a copy of a letter for Edward C. Pankowski, Esquire and requesting a docket sheet. Also enclosing a letter from Steven Krafchick to Clerk, regarding his desire to supplement the opening brief. (sent) (eas) (clh)
- 34 Oct 02 Document entitled "Motion to Appoint New Appellate Counsel" by Steven Krafchick. (eas)
- 35 Oct 02 Letter dated 9/30/02 from Steven Krafchick to Clerk, requesting a docket sheet. (sent) (eas)
- 36 Oct 03 Letter dated 10-3-02 from Clerk to Edward Pankowski, Esquire, forwarding Mr. Krafchick's 9/30/02 document for appropriate disposition. (clh)
- 37 Oct 04 Letter dated 10/04/02 from Edward C. Pankowski, Esquire to Assistant Clerk enclosing brief corrections. (service shown) (mfm)
- 38 Oct 07 Appellee's answering brief and appendix. (served by hand 10/07/02) (mfm)
- 39 Oct 09 Notice dated 10-9-02 from Clerk to counsel, the case will be submitted for decision on briefs as of 11-26-02 (clh) (RJH,CB,MTS)
- 40 Oct 10 Copy of letter dated 10-8-02 from appellant to Edward C. Pankowski, Jr., Esquire, regarding his appeal. (clh)
- 41 Oct 23 Letter dated 10/21/02 from Steven Krafchick to Clerk, requesting a docket sheet. (docket sheet and appellant's brief corrections sent) (eas)
- 42 Oct 29 Letter dated 10-27-02 from Mr. Krafchick to Clerk, requesting a copy of the State's answering brief and appendix. (clh)
- 43 Oct 29 Letter dated 10-29-02 from Clerk to Edward C. Pankowski

Esquire, forwarding Mr. Krafchick's letter for appropriate disposition. (clh)

- 44 Nov 06 Letter dated 11-4-02 from appellant to Clerk, regarding the conflict of interest between himself and his attorney. (clh)
- 45 Nov 12 Letter dated 11/12/02 from Senior Court Clerk to Edward C. Pankowski, Jr., Esquire, forwarding Mr. Krafchick's letter for appropriate disposition (eas) (afb).
- 46 Nov 18 Copy of letter dated 11/8/02 from Edward Pankowski, Jr. Esquire to Steven Krafchick, enclosing a copy of the State's Answering Brief and Appendix and a copy of the brief corrections to appellant's opening brief filed 10/14/02 (eas) (afb).
- 47 Dec 11 Order dated 12/11/02 by Steele, J., REMANDED with jurisdiction retained. (RJH,CB,MTS) (eas)
- 48 Dec 12 Letter dated 12/10/02 from Steven Krafchick to Clerk, requesting a docket sheet. (sent) (eas)
- 49 Dec 12 Record and certified copy of Order dated 12/11/02 to clerk of court below. Jurisdiction is retained. Case due to be returned by 2/10/03. (afb).
- 50 Dec 19 Letter dated 12-17-02 from appellant to Clerk, requesting a copy of the Court's order. (copy sent) (clh)
- 51 Dec 20 Prothonotary's receipt of record and certified order on 12-17-02. (clh)
- 2003
- 52 Jan 07 Letter dated 1-4-03 from Steven W. Krafchick to Clerk, regarding the decision on remand. (clh)
- 53 Jan 07 Letter dated 1-7-03 from Clerk to Edward Pankowski, Esq forwarding Mr. Krafchick's letter for appropriate disposition. (clh)
- 54 Feb 20 Letter dated 2/12/03 from Steven Krafchick to Clerk, regarding his appeal. (eas)
- 55 Feb 21 Letter dated 2/20/03 from Senior Court Clerk to Edward C. Pankowski, Jr., Esquire, forwarding Mr. Krafchick's letter for appropriate disposition. (eas)
- 56 Feb 21 Letter dated 2-21-03 from Clerk to Judge Toliver, the case is now due to be returned from remand on 2-28-03. (clh)
- 57 Mar 04 Response to Order of Remand by Judge Toliver. (eas)
- 58 Mar 10 Letter dated 3/10/03 from Senior Court Clerk to parties, appellant's opening supplemental memo, not to exceed 6 pages, is due 3/20/03; appellee's answering

supplemental memo, not to exceed 6 pages, is due 3/31/03; appellant's reply supplemental memo, not to exceed 3 pages, is due 4/7/03. (eas)

59 Mar 10 Letter dated 3/7/03 from Steven Krafchick to Clerk, requesting a docket sheet. (sent) (eas)

60 Mar 14 Letter dated 3-12-03 from appellant to Clerk, requesting a copy of the decision returning the matter from remand. (clh) (copy sent)

61 Mar 19 Appellant's opening supplemental memorandum. (served by hand 03/19/03) (mfm)

62 Mar 27 Undated letter from Steven Krafchick to Clerk, regarding his appeal. (eas)

63 Mar 27 Letter dated 3/27/03 from Senior Court Clerk to Edward Pankowski, Esquire, forwarding Mr. Krafchick's letter with attachments for appropriate disposition. (eas)

64 Mar 31 State's answering supplemental memorandum. (served by hand 03/31/03) (mfm)

65 Apr 01 Undated letter from Steven Krafchick to Clerk, requesting a copy of the State Supplemental Memo and the docket sheet. (eas)

66 Apr 01 Letter dated 4/1/03 from Senior Court Clerk to Edward Pankowski, Esquire, forwarding Mr. Krafchick's letter for appropriate disposition. (eas)

67 Apr 07 Letter dated 4/4/03 from Steven Krafchick to Clerk, regarding his appeal. (eas)

68 Apr 09 To note on the docket, the appellant is not filing a supplemental reply memorandum. (dlw)

69 Apr 11 Letter dated 4/5/03 from Steven Krafchick to Clerk, enclosing copy of his letter dated 4/5/03 to Edward C. Pankowski, Esq. (served by mail 4/5/03) (eas) (afb).

70 Apr 14 Letter dated 4/14/03 from Senior Court Clerk to Edward Pankowski, Esquire, forwarding Mr. Krafchick's letters for appropriate disposition. (eas)

71 Apr 21 Notice dated 4-21-03 from Clerk to counsel, the case will be submitted for decision on briefs as of 5-6-03. (clh) (RJH,CB,MTS)

72 May 08 Order dated 05/08/03 by Berger, J., AFFIRMED (RJH,CB,MTS) (mfm)

73 May 27 Mandate to clerk of court below. Case Closed. (afb).

74 Jun 05 Letter dated 6/3/03 from Steven Krafchick to clerk requesting a copy of the docket sheet (sent) (afb).

75 Jun 12 Prothonotary's receipt of record and mandate on

5/29/03. (eas)

76 Jun 13 Letter dated 6/10/03 from Steven Krafchick to Clerk,  
requesting a copy of the Order and enclosing a copy of  
a document entitled "Notice of Motion for Rehearing &  
en Banc". (eas)

77 Jun 16 Letter dated 6/16/03 from Senior Court Clerk to  
appellant, advising that the Court will take no further  
action with respect to his letter as it no longer has  
jurisdiction. (eas)

2007

78 May 03 Letter dated 4/30/07 from appellant to Clerk,  
requesting copy of docket sheet. (copy sent) (lsb)



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State of Delaware v. STEVEN W KRAFCHICK  
State's Atty: MARIA T KNOLL , Esq.  
Defense Atty: EDWARD C PANKOWSKI , Esq.

DOB: 01/06/1965

AKA:

Assigned Judge: TOLIVER CHARLES H. IV

## Charges:

| Count | DUC#       | Crim.Action# | Description     | Dispo. | Dispo. Date |
|-------|------------|--------------|-----------------|--------|-------------|
| 001   | 0101010946 | PN01012351R2 | MURDER 2ND      | GLTY   | 02/13/2002  |
| 002   | 0101010946 | IN01012352R2 | PDWDCF          | GLTY   | 02/13/2002  |
| 003   | 0101010946 | IN01012517   | PDWBPP          | NOLP   | 02/13/2002  |
| 004   | 0101010946 | N01012518    | NONC W/CON BOND | NOLP   | 02/13/2002  |
| 005   | 0101010946 | IN01012519   | UNLAW IMPR 2ND  | NOLP   | 02/13/2002  |
| 006   | 0101010946 | IN01012520   | ASSAULT 3RD     | NOLP   | 02/13/2002  |
| 007   | 0101010946 | IN01012521   | TERROR THREAT   | NOLP   | 02/13/2002  |
| 008   | 0101010946 | IN01012522   | OFF TOUCHING    | NOLP   | 02/13/2002  |
| 009   | 0101010946 | IN01012523   | CRIM CNTMPT DVP | NOLP   | 02/13/2002  |
| 010   | 0101010946 | IN01012540   | NON COMP BOND   | NOLP   | 02/13/2002  |

| No. | Event Date | Event                                                                                                                                                         | Judge               |
|-----|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1   | 01/31/2001 | CASE ACCEPTED IN SUPERIOR COURT.<br>ARREST DATE: 01/16/2001<br>PRELIMINARY HEARING DATE:<br>BAIL:<br>HELD ON CASH BAIL 50000.00 100<br>HELD WITHOUT BAIL 0.00 |                     |
| 2   | 02/26/2001 | INDICTMENT, TRUE BILL FILED. #143<br>ARRAIGNMENT BAIL REPRESENTATION 03132001 9:30                                                                            |                     |
| 3   | 02/26/2001 | MEMORANDUM TO RIDGELY, J. FOR ASSIGNMENT OF THE ABOVE CASE.                                                                                                   |                     |
| 4   | 02/26/2001 | LETTER E-MAIL FROM PROY'S TO KNOLL, REQUESTING IF THIS CASE IS CAPITAL OR NON CAPITAL CASE.                                                                   |                     |
| 6   | 02/28/2001 | NOTICE OF SERVICE - DISCOVERY RESPONSE FROM EDWARD PANKOWSKI, ESQ.                                                                                            |                     |
| 5   | 03/02/2001 | MEMO SPECIALLY ASSIGNING NON-CAPITAL FIRST DEGREE MURDER CASE TO: JUDGE TOLIVER                                                                               |                     |
|     | 03/13/2001 | BAIL MODIFIED. BAIL NOW SET AT<br>HELD ON SECURED BAIL 160000.00 100<br>HELD WITHOUT BAIL (2351)                                                              | REYNOLDS MICHAEL P. |

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State of Delaware v. STEVEN W KRAFCHICK  
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Defense Atty: EDWARD C PANKOWSKI , Esq.

DOB: 01/06/1965

| No. | Event<br>Date | Event                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Judge                 |
|-----|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 7   | 03/13/2001    | ARRAIGNMENT CALENDAR, ARRAIGNED.                                                                                                                                                                                                                                                                                                                                                                                                                                                       | REYNOLDS MICHAEL P.   |
| 8   | 05/08/2001    | HEARING FOR SCHEDULING HELD. TRIAL LENGTH TWO WEEKS; JURY SELECTION TO BEGIN 2/05/02; STATUS CONFERENCE 11/05/01 @ 10:30; PSYCH REPORT DUE 8/01/01; STATES RESPONSE DUE 11/02/01 FOR PSYCHS; MOTION DEADLINE 11/02/01.                                                                                                                                                                                                                                                                 | TOLIVER CHARLES H. IV |
| 9   | 05/15/2001    | LETTER FROM PRESIDENT JUDGE RIDGLEY TO JUDGE TOLIVER.<br>RE: THIS NON-CAPITAL FIRST -DEGREE MURDER CASE IS SPECIALLY ASSIGNED TO YOU FOR ALL PURPOSES UNTIL FINAL DISPOSITION. DEFENDANT KRAFCHICK WAS ARRESTED ON JAN. 16, 2001 AND INDICTED BY THE GRAND JURY ON FEB. 26, 2001.                                                                                                                                                                                                      | RIDGELY HENRY DUPONT  |
| 10  | 05/17/2001    | LETTER FROM JUDGE TOLIVER TO MARSHA EPSTEIN, ED PANKOWSKI, AND MARIA K NOLL RE: THE LETTER CONFIRMS THE RESULTS OF THE CONFERENCE HELD ON MAY 8 CONERNING THIS DEFENDANT.                                                                                                                                                                                                                                                                                                              | TOLIVER CHARLES H. IV |
| 11  | 08/20/2001    | LETTER FROM EDWARD PANKOWSKI, JR., ASSISTANT PUBLIC DEFENDER TO: JUDGE TOLIVER<br>IN CONJUNCTION WITH THE COURTS LETTER OF MAY 16, 2001, PLEASE NOTE THAT THE DEFENSE WILL BE CALLING MANDEL MUCH, M.D., A PSYCHIATRIST AT THE TRIAL SCHEDULED TO BEGIN ON FEBRUARY 5, 2002. I HAD A TELE-CONFERENCE WITH DR. MUCH ON AUGUST 10, 2001 AND HE ASSURED ME THAT A FULL REPORT IN WRITING WOULD BE IN MY OFFICE BY SEPTEMBER 15, 2001. I WILL IMMEDIATELY FORWARD SAME TO THE PROSECUTORS. | TOLIVER CHARLES H. IV |
| 12  | 10/01/2001    | LETTER FROM JUDGE TOLIVER TO MARSHA EPSTEIN, DEPUTY ATTORNEY GENERAL, MARIA KNOLL, DEPUTY ATTORNEY GENERAL, AND EDWARD PANKOWSKI, ASSISTANT PUBLIC DEFENDER<br>RE: TO CONFIRM RESULTS OF 9/24/01 OFFICE CONFERENCE. ORDER SIGNED AT STATE'S REQUEST EXTENDING DATES FOR SUBMISSION OF EXPERT REPORTS BY BOTH THE DEFENSE AND STATE. DATE CHANGED OF STATUS CONFERENCE TO 12/14/01. ALL OTHER ASPECTS OF THE ORDER ENTERED ON MAY 16, 2001, REMAIN THE SAME.                            | TOLIVER CHARLES H. IV |
| 13  | 10/09/2001    | LETTER FROM MARSHA EPSTEIN, DEPUTY ATTORNEY GENERAL AND MARIA KNOLL, DEPUTY ATTORNEY GENERAL TO JUDGE TOLIVER<br>RE: THE STATE HAS NOT YET RECEIVED THE REPORT FROM DEFENSE EXPERT MANDEL MUCH, M.D. INITIALLY, THE COURT ORDERED THE DEFENSE TO PROVIDE ANY SUCH REPORT BY AUGUST 1, 2001. ON AUGUST 15, 2001, DEFENSE SUBMITTED A LETTER INDICATING THAT THE REPORT WOULD BE PROVIDED BY SEPT.                                                                                       | TOLIVER CHARLES H. IV |

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State of Delaware v. STEVEN W KRAFCHICK  
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Defense Atty: EDWARD C PANKOWSKI , Esq.

DOB: 01/06/1965

AKA:

| No. | Event Date | Event                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Judge                 |
|-----|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
|     |            | 15, 2001. (ATTACHED) IT IS NOW FIVE DAYS PAST THAT DATE AND THE STATE HAS RECEIVED NOTHING FROM THE DEFENSE. THIS DELAY OF OVER 45 DAYS HAS MADE THE STATE'S DEADLINE FOR PRODUCTION OF ITS EXPERT REPORT BY NOV. 2, 2001 IMPOSSIBLE. THE STATE HAS TAKEN STEPS TO SECURE ITS EXPERT BUT IS OBVIOUSLY HAMPERED BY THE DEFENDANT'S LACK OF COMPLIANCE WITH THE COURT'S SCHEDULE. AS SUCH, THE STATE REQUESTS THAT DEFENSE BE ORDERED TO SUPPLY ITS REPORT TO THE STATE NO LATER THAN OCT. 1, 2001. FURTHER, THE STATE REQUESTS THAT ITS DEADLINE OF NOV. 2, 2001 BE EXTENDED TO DEC. 15, 2001. IF THE STATE COMES INTO POSSESSION OF THE REPORT PRIOR TO THAT TIME, IT WILL IMMEDIATELY BE PROVIDED TO THE DEFENSE.<br>THANK YOU FOR YOUR CONSIDERATION IN THIS MATTER. |                       |
| 14  | 12/14/2001 | OFFICE CONFERENCE PROCEEDING HELD. STATUS: COUNSEL PRESENT.<br>TRIAL DATE:.....FEB. 5, 2002<br>DR. TIVANIS REPORT DUE:.....DEC. 28, 2001<br>VOIR DIRE DUE.....JAN. 18,2002<br>STATE'S RESPONSE TO DR'S RASKIN DUE: DEC. 18, 2001<br>NEXT OFFICE CONFERENCE SCHEDULED FOR: JAN. 30, 2002. 8:30A.M.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | TOLIVER CHARLES H. IV |
| 15  | 12/27/2001 | MOTION TO ALLOW THE EXPERT TESTIMONY AND REPORTS OF DR. CAROL TAVANI AT TRIAL FILED.<br>BY EDWARD PANKOWSKI & KATHRYN LUNGER<br>REFERRED TO JUDGE TOLIVER 12/28/01                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                       |
|     | 01/01/2002 | ENTERED IN ERROR.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                       |
| 31  | 01/17/2002 | LETTER FROM MARSHA EPSTEIN, ESQ. AND MARIA KNOLL, ESQ. TO JUDGE TOLIVER<br>RE: STATE'S PROPOSED JURY VOIR DIRE FOR THIS CASE.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                       |
| 16  | 01/22/2002 | SUBPOENA(S) MAILED.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                       |
| 22  | 01/29/2002 | DEFENDANT'S PROPOSED VOIR DIRE QUESTIONS FILED.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                       |
| 17  | 01/31/2002 | MOTION FOR REARGUMENT FILED.<br>BY MARSHA EPSTEIN<br>REFERRED TO JUDGE TOLIVER 2/7/02                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                       |
| 20  | 02/01/2002 | LETTER FROM EDWARD PANKOWSKI, ESQ. ASSISTANT PUBLIC DEFENDER<br>TO: JUDGE TOLIVER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | TOLIVER CHARLES H. IV |



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State of Delaware v. STEVEN W KRAFCHICK  
State's Atty: MARIA T KNOLL , Esq.  
Defense Atty: EDWARD C PANKOWSKI , Esq.

DOB: 01/06/1965

AKA:

| No. | Event<br>Date | Event                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Judge                 |
|-----|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
|     |               | RE: OFFICE CONFERENCE HELD ON JANUARY 30, 2002. DEFENSE OBJECTS TO INTRODUCTION OF THE POLICE REPORT. DEFENSE ALSO RESERVES OBJECTION TO THE MANNEQUIN UNTIL IT IS VIEWED BY DEFENSE TO DETERMINE ITS RELEVANCE.<br>ATTACHED COPIES OF MEDICAL AND POLICE REPORTS.                                                                                                                                                                                                                                                                                       |                       |
| 25  | 02/02/2002    | LETTER FROM MARSHA EPSTEIN AND MARIA KNOLL, DEPUTY ATTORNEYS GENERAL TO: JUDGE TOLIVER<br>RE: STATE'S RESPONSE DEFENDANT'S LETTER OF MEMORANDUM IN OPPOSITION TO THE STATE'S INTENT TO INTRODUCE VICTIM STATEMENTS CONTAINED IN THE POLICE AND MEDICAL REPORTS REGARDING THE DECEMBER 20, 2002 DOMESTIC VIOLENCE INCIDENT.                                                                                                                                                                                                                               | TOLIVER CHARLES H. IV |
| 24  | 02/04/2002    | LETTER FROM JUDGE TOLIVER TO MARSHA EPSTEIN, MARIA KNOLL, DEPUTY ATTORNEYS GENERAL AND KATHRYN LUNGER, ASSISTANT PUBLIC DEFENDER<br>RE: RESPONSE TO MS. EPSTEIN'S MOTION ON BEHALF OF THE STATE ASKING TO REARGUE WHAT THE STATE VIEWED AS THE COURT'S RULING DIRECTING IT TO PROVIDE THE DEFENSE WITH DELJIS RECORDS PERTAINING TO PERSPECTIVE IN THIS MATTER.                                                                                                                                                                                          | TOLIVER CHARLES H. IV |
| 18  | 02/05/2002    | TRIAL CALENDAR- WENT TO TRIAL JURY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | TOLIVER CHARLES H. IV |
| 19  | 02/08/2002    | STATE'S WITNESS SUBPOENA ISSUED.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                       |
| 21  | 02/08/2002    | SUBPOENA(S) SERVED BY SHERIFF.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                       |
| 23  | 02/11/2002    | LETTER FROM MARSHA EPSTEIN, ESQ. AND MARIA KNOLL, ESQ.<br>TO: JUDGE TOLIVER<br>RE: STATE'S REQUESTED JURY INSTRUCTIONS.                                                                                                                                                                                                                                                                                                                                                                                                                                  | TOLIVER CHARLES H. IV |
| 33  | 02/13/2002    | SENTENCE: ASOP ORDER SIGNED & FILED 4/12/02.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | TOLIVER CHARLES H. IV |
| 26  | 03/07/2002    | LETTER FROM MARSHA EPSTEIN, DEPUTY ATTORNEY GENERAL AND MARIA KNOLL, DEPUTY ATTORNEY GENERAL TO JUDGE TOLIVER.<br>RE: THE STATE HAS PROVIDED OUR PSYCHIATRIC EXPERT, DR. DAVID RASKIN, A COPY OF THE PSYCHIATRIC REPORT PREPARED BY THE DEFENDANT'S EXPERT DR. CAROL TAVANI. DR. RASKIN HAS INFORMED THE STATE THAT DR. TAVANI'S REPORT DOES NOT SPUR ANY FURTHER OR ADDITIONAL COMMENTS ON HIS PART. THEREFORE, THE STATE WILL NOT BE PROVIDING ANY ADDITIONAL DISCOVERY TO THE DEFENSE REGARDING PSYCHIATRIC EXPERT OPINIONS TO BE PROFFERED AT TRIAL. | TOLIVER CHARLES H. IV |
| 28  | 03/15/2002    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                       |



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State of Delaware v. STEVEN W KRAFCHICK  
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Defense Atty: EDWARD C PANKOWSKI , Esq.

DOB: 01/06/1965

AKA:

| No. | Event<br>Date | Event                                                                                                                                                                                                                                                                                                                    | Judge                 |
|-----|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
|     |               | DEFENDANT'S LETTER FILED.                                                                                                                                                                                                                                                                                                |                       |
|     |               | RE: NOTICE OF APPEAL SENT TO MR. PANKOWSKI                                                                                                                                                                                                                                                                               |                       |
| 29  | 03/18/2002    | LETTER FROM STEVEN KRAFCHICK TO SUPREME COURT                                                                                                                                                                                                                                                                            |                       |
|     |               | RE: APPEAL.                                                                                                                                                                                                                                                                                                              |                       |
| 30  | 04/05/2002    | DEFENDANT'S LETTER FILED.                                                                                                                                                                                                                                                                                                |                       |
|     |               | RE: NOTICE OF APPEAL, AND DIRECTIONS TO THE COURT REPORTER                                                                                                                                                                                                                                                               |                       |
| 32  | 04/17/2002    | DEFENDANT'S LETTER FILED. CC: SUPERIOR COURT. ADDRESSED TO COUNSEL.                                                                                                                                                                                                                                                      |                       |
|     |               | MR. PANKOWSKI.                                                                                                                                                                                                                                                                                                           |                       |
|     |               | RE: VIDEO CONFERENCE FOR APPEAL AND SENTENCE REDUCTION.                                                                                                                                                                                                                                                                  |                       |
| 34  | 05/02/2002    | MOTION FOR MODIFICATION OF SENTENCE FILED.                                                                                                                                                                                                                                                                               |                       |
|     |               | BY EDWARD PANKOWSKI & KATHRYN LUNGER                                                                                                                                                                                                                                                                                     |                       |
|     |               | REFERRED TO JUDGE TOLIVER 5/9/02                                                                                                                                                                                                                                                                                         |                       |
| 37  | 05/13/2002    | DEFENDANT'S LETTER FILED. NOTICE OF "INSTRUCTIONS FOR COUNSEL"                                                                                                                                                                                                                                                           |                       |
| 36  | 05/14/2002    | LETTER FROM MARSHA EPSTEIN, DEPUTY ATTORNEY GENERAL AND MARIA KNOLL, DEPUTY ATTORNEY GENERAL                                                                                                                                                                                                                             | TOLIVER CHARLES H. IV |
|     |               | TO JUDGE TOLIVER (DATED FEBRUARY 2, 2002)                                                                                                                                                                                                                                                                                |                       |
|     |               | RE: LETTER OF MEMORANDUM AS THE STATE'S RESPONSE DEFENDANT'S LETTER OF MEMORANDUM IN OPPOSITION TO THE STATE'S INTENT TO INTRODUCE VICTIM STATEMENTS CONTAINED IN THE POLICE AND MEDICAL REPORTS REGARDING THE DECEMBER 20, 2002 DOMESTIC VIOLENCE INCIDENCE.                                                            |                       |
|     |               | ATTACHMENTS INCLUDING MEDICAL REPORT.                                                                                                                                                                                                                                                                                    |                       |
| 38  | 05/21/2002    | LETTER FROM SUPREME COURT TO SHARON AGNEW, PROTHONOTARY                                                                                                                                                                                                                                                                  |                       |
|     |               | RE: THE FORMAL NOTICE OF APPEAL WAS FILED ON MAY 15, 2002.                                                                                                                                                                                                                                                               |                       |
|     |               | THE TRANSCRIPT IS DUE TO BE FILED WITH THE PROTHONOTARY NO LATER THAN JUNE 27, 2002.                                                                                                                                                                                                                                     |                       |
|     |               | 135, 2002.                                                                                                                                                                                                                                                                                                               |                       |
| 35  | 05/24/2002    | ORDER: AND NOW, TO WIT, THIS 21ST DAY OF MAY, A.D., 2002, THE FOREGOING MOTION HAVING BEEN READ AND CONSIDERED, IT IS HEREBY;                                                                                                                                                                                            | TOLIVER CHARLES H. IV |
|     |               | IT IS ORDERED THAT THE MOTION IS DENIED FOR THE REASONS GIVEN AT THE TIME OF SENTENCING. IT IS ALSO BASED UPON THE MANNER OF THE COMMISSION OF THE CRIME & THE DEFENDANT'S ACTIVITIES IN FURTHERANCE OF THE CRIME &/OR ITS CONCEALMENT UNDER THE CIRCUMSTANCES A LESSER SENTENCE WOULD AMOUNT TO AN ABUSE OF DISCRETION. |                       |
| 39  | 06/27/2002    |                                                                                                                                                                                                                                                                                                                          |                       |

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Defense Atty: EDWARD C PANKOWSKI , Esq.

DOB: 01/06/1965  
AKA:

| No. | Event<br>Date | Event                                                                                                                                                                                                                                  | Judge                                    |
|-----|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
|     |               | TRANSCRIPT FILED.<br>PLEA TRANSCRIPT.FEBRUARY 13, 2002.<br>BEFORE JUDGE TOLIVER.                                                                                                                                                       |                                          |
| 40  | 06/27/2002    | TRANSCRIPT FILED.<br>TRIAL TRANSCRIPT. FEBRUARY 12, 2002.<br>BEFORE JUDGE TOLIVER.                                                                                                                                                     |                                          |
| 41  | 07/03/2002    | LETTER FROM SUPREME COURT TO JOHN DONNELLY, COURT REPORTER<br>RE: THE COURT HAS GRANTED YOUR REQUEST FOR EXTENSION TO FILE<br>THE TRANSCRIPT. THE TRANSCRIPT IS DUE NO LATER THAN JULY 29, 2002<br>135, 2002                           |                                          |
| 42  | 07/10/2002    | TRANSCRIPT FILED.<br>TRANSCRIPT OF TRIAL TESTIMONY. FEBRUARY 6, 2002.<br>BEFORE JUDGE TOLIVER.                                                                                                                                         |                                          |
| 43  | 07/10/2002    | TRANSCRIPT FILED.<br>TRANSCRIPT OF TRIAL TESTIMONY. FEBRUARY 8, 2002.<br>BEFORE JUDGE TOLIVER.                                                                                                                                         |                                          |
| 44  | 07/10/2002    | TRANSCRIPT FILED.<br>TRANSCRIPT OF TRIAL TESTIMONY. FEBRUARY 7, 2002.<br>BEFORE JUDGE TOLIVER.                                                                                                                                         |                                          |
| 45  | 07/16/2002    | LETTER FROM SUPREME COURT TO SHARON AGNEW, PROTHONOTARY<br>RE: THE RECORD AND TRANSCRIPT MUST BE FILED WITH THIS OFFICE<br>NO LATER THAN JULY 22, 2002.<br>135, 2002.                                                                  |                                          |
|     | 07/18/2002    | RECORDS SENT TO SUPREME COURT.                                                                                                                                                                                                         |                                          |
| 46  | 07/19/2002    | RECEIPT FROM SUPREME COURT ACKNOWLEDGING RECORD.                                                                                                                                                                                       |                                          |
| 47  | 07/25/2002    | MOTION FOR TRANSCRIPTS (PRO SE) FILED.<br>REFERRED TO JUDGE TOLIVER.                                                                                                                                                                   |                                          |
| 48  | 08/27/2002    | LETTER FROM STEVEN W. KRAFCHICK<br>RE: STEVEN W. KRAFCHICK<br>TO WHOM IT MAY CONCERN:<br>CAN YOU PLEASE ADD THESE DOCUMENTS TO MY FILE, AND WHEN RECORDED SEND<br>ME AN UPDATED DOCKET SHEET WITH THOSE DOCUMENTS ON RECORD. SEE DOCU- | TOLIVER CHARLES H. IV<br>TO PROTHONATORY |

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Defense Atty: EDWARD C PANKOWSKI , Esq.

DOB: 01/06/1965

AKA:

| No. | Event<br>Date | Event                                                                                                                                                                                                                                                                                                                                                                                                          | Judge                 |
|-----|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
|     |               | MENTS IN FILE.                                                                                                                                                                                                                                                                                                                                                                                                 |                       |
| 49  | 09/24/2002    | MOTION FOR TRANSCRIPT FILED.<br>PRO-SE MOTION REFERRED TO JUDGE TOLIVER.                                                                                                                                                                                                                                                                                                                                       |                       |
| 50  | 10/09/2002    | LETTER/ORDER ISSUED BY JUDGE: TOLIVER. MOTION FOR TRANSCRIPTS DENIED.                                                                                                                                                                                                                                                                                                                                          | TOLIVER CHARLES H. IV |
| 51  | 10/23/2002    | LETTER FROM: EDWARD PANKOWSKI, PD. TO: DEFENDANT<br>RE: ENCLOSED PLEASE FIND COPIES OF YOUR COMPLETE TRIAL TRANSCRIPTS<br>PLUS SENTENCING FROM FEBRUARY 7, 2002 THROUGH FEBRUARY 13, 2002.                                                                                                                                                                                                                     |                       |
| 52  | 10/23/2002    | LETTER FROM JUDGE TOLIVER TO DEFENDANT.<br>RE: THE COURT IS IN RECEIPT OF YOUR MOTION FOR TRANSCRIPTS, FILED<br>WITH THE PROTHONOTARY ON SEPTEMBER 24, 2002. THIS LETTER SERVES AS<br>NOTICE THAT MR. ED PANKOWSKI, ESQUIRE OF THE PUBLIC DEFENDER'S<br>OFFICE HAS AGREED TO SEND YOU COPIES OF THE TRANSCRIPTS YOU HAVE<br>REQUESTED. AS A RESULT, YOUR MOTION MUST BE, AND HEREBY IS MOOTED<br>AT THIS TIME. | TOLIVER CHARLES H. IV |
| 53  | 12/16/2002    | MANDATE FILED FROM SUPREME COURT: CASE REMANDED TO SUPERIOR COURT.<br>SUPREME COURT CASE NO: 135, 2002<br>PURPOSE: FOR THE TRIAL JUDGE TO SET FORTH WITH PARTICULARITY THE<br>REASONS FOR IMPOSING A SENTENCE THAT EXCEEDED THE DELAWARE<br>SENTENCING GUIDELINES IN ACCORDANCE WITH THIS COURT'S ADMINISTRATIVE<br>DIRECTIVE NUMBER SEVENTY-SIX AND SIPLE V. STATE.                                           |                       |
| 54  | 02/28/2003    | RESPONSE TO ORDER OF REMAND: FILED BY JUDGE TOLIVER.                                                                                                                                                                                                                                                                                                                                                           |                       |
| 55  | 05/29/2003    | MANDATE FILED FROM SUPREME COURT: SUPERIOR COURT JUDGMENT AFFIRMED.<br>SUPREME COURT CASE NO: 135, 2003<br>SUBMITTED: MAY 6, 2003<br>DECIDED: MAY 8, 2003<br>BEFORE HOLLAND, BERGER AND STEELE, JUSTICES.                                                                                                                                                                                                      |                       |
| 56  | 07/16/2003    | MOTION FOR APPOINTMENT OF COUNSEL FILED PROSE. REFEERRED TO JUDGE<br>TOLIVER                                                                                                                                                                                                                                                                                                                                   |                       |
| 57  | 07/24/2003    | ORDER: MOTION FOR APPOINTMENT OF COUSEL IS DENIED.                                                                                                                                                                                                                                                                                                                                                             | TOLIVER CHARLES H. IV |
| 58  | 05/07/2004    | MOTION FOR POSTCONVICTION RELIEF FILED. PRO SE<br>REFERRED TO JUDGE TOLIVER.                                                                                                                                                                                                                                                                                                                                   |                       |
| 59  | 05/13/2004    |                                                                                                                                                                                                                                                                                                                                                                                                                |                       |



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State of Delaware v. STEVEN W KRAFCHICK  
 State's Atty: MARIA T KNOLL , Esq.  
 Defense Atty: EDWARD C PANKOWSKI , Esq.

AKA:

DOB: 01/06/1965

| No. | Event<br>Date | Event                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Judge                 |
|-----|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
|     |               | LETTER FROM A.HAIRSTON, PROTH. OFFICE TO MARIA KNOLL, DAG<br>RE: NOTICE OF FILING OF PRO SE MOTION FOR POSTCONVICTION RELIEF.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                       |
| 60  | 06/08/2004    | LETTER FROM JUDGE TOLIVER TO COUNSEL. RE: RULE 61. THIS LETTER IS TO SERVE AS THE COURT'S ORDER FOR THE STATE TO FILE A RESPONSE TO DEFENDANT'S MOTION FOR POSTCONVICTION RELIEF, PURSUANT TO SUPERIOR COURT CRIMINAL RULE 61(C)(4) AND 61(F)(1). FURTHERMORE, THE DEFENSE COUNSEL IS HEREBY ORDERED TO FILE A RESPONSE. ALL SUBMISSIONS MUST BE FILED BY JUNE 30, 2004.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | TOLIVER CHARLES H. IV |
| 61  | 06/25/2004    | LETTER/ORDER ISSUED BY JUDGE: TOLIVER. I HAVE NOW HAD THE OPPORTUNITY TO REVIEW THE LETTER YOU SENT ME DATED JUNE 16, WHICH I RECEIVED ON JUNE 21 CONCERNING THE BRIEFING SCHEDULE IN THE ABOVE-REFERENCED MATTER. MR. PANKOWSKI HAS NOT RESPONDED OR OTHERWISE INDICATED HE HAS ANY POSITION IN OPPOSITION TO THE SCHEULE THAT YOU HAVE OUTLINED. AS A RESULT, MR. PANKOWSKI RESPONSE WOULD BE DUE ON OR BEFORE JUNE 30, 04 AND THE STATE'S SUNMISSION WOULD BE DUE ON OR BEFORE JULY 30, 04. IT IS SO ORDERED.                                                                                                                                                                                                                                                                                                                                                                                                          | TOLIVER CHARLES H. IV |
| 63  | 07/02/2004    | LETTER SENT TO DEPUTY ATTORNEY GENERAL'S.<br>AMENDED MOTION FOR POSTCONVICTION RELIEF FILED PRO SE REFERRED TO JUDGE TOLIVER.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                       |
| 62  | 07/07/2004    | LETTER FROM: MARIA KNOLL AND MARSHA EPSTEIN, DAG. TO: JUDGE TOLIVER. THE STATE IS IN RECEIPT OF OUR HONOR'S ORDER REQUIRING SIMULTANEOUS RESPONSE FROM THE STATE AND TRIAL COUNSEL, EDWARD PANKOWSKI, JR. BY JUNE 30, 2004 TO THE RULE 61 MOTION FILED BY DEFT., STEVEN W. KRAFCHICK.<br>SINCE DEFENDANT RAISES INEFFECTIVE ASSISTANCE OF COUNSEL ARGUMENTS, THE STATE BELIEVES THAT IT WOULD BENEFIT FROM AND INDEED, WOULD NEED TO REVIEW MR. PANKOWSKI'S RESPONSE PRIOR TO THE FILING OF ITS OWN RESPONSE. AS SUCH, THE STATE, HEREBY, RESPECTFULLY REQUESTS THAT MR. PANKOWSKI SUBMIT HIS RESPONSE TO MR. KRAFCHICK'S MOTION ON OR BEFORE JUNE 30, 2004 AND THAT THE STATE, HAVING THE BENEFIT OF MR. PANKOWSKI'S RESPONSE AND BE ALLOWED TO RESPOND WITHIN 30 DAYS OF THE RECEIPT OF SAID RESPONSE. THIS WILL OBIATE THE NEED FOR THE STATE TO FILE A SUPPLEMENTAL RESPONSE UPON REVIEW OF MR. PANKOWSKI'S AFFIDAVIT |                       |
| 64  | 07/16/2004    | LETTER FROM JUDGE TOLIVER TO MARIA KNOLL, DAG<br>RE: TJE COURT HAD REVIEWED MR. KRAFCHICK'S AMENDMENT TO HIS RULE 61 POSTCONVICTION MOTION WHICH WAS RECEIVED ON OR ABOUT JULY 2, 2004. IN LIGHT OF HIS RECENT CONTENTIONS, THE COURT IS GRANTING THE STATE AN                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | TOLIVER CHARLES H. IV |



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State of Delaware v. STEVEN W KRAFCHICK  
 State's Atty: MARIA T KNOLL , Esq.  
 Defense Atty: EDWARD C PANKOWSKI , Esq.

AKA:

DOB: 01/06/1965

| No. | Event<br>Date | Event                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Judge                  |
|-----|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
|     |               | ADDITONAL THIRTY (30) DAYS FROM THE ORIGINAL DEADLINE DATE OF JULY 30, 2004 IN WHICH TO FILE A RESPONSE. THEREFORE, THE STATE'S RESPONSE IS DUE NO LATER THAN AUGUST 31, 2004. A COURTESY COPY SHOULD BE SENT TO CHAMBERS.                                                                                                                                                                                                                                         |                        |
| 66  | 07/20/2004    | AMENDED MOTION TO BE INCORPORATED INTO HIS MEMORANDUM OF LAW IN SUPPORT OF RULE 61 MOTION.                                                                                                                                                                                                                                                                                                                                                                         |                        |
| 65  | 07/30/2004    | AFFIDAVIT OF DEFENSE COUNSEL IN RESPONSE TO RULE 61 MOTION FOR POST-CONVICTION RELIEF.<br>FILED BY EDWARD PANKOWSKI, ESQ                                                                                                                                                                                                                                                                                                                                           |                        |
| 67  | 08/05/2004    | MOTION FOR APPOINTMENT OF COUNSEL (RULE 61) FILED. PRO SE REFERRED TO JUDGE TOLIVER.                                                                                                                                                                                                                                                                                                                                                                               |                        |
| 68  | 08/05/2004    | APPLICATION TO PROCEED INFORMA PAUPERIS FILED PRO SE REFERRED TO JUDGE TOLIVER.                                                                                                                                                                                                                                                                                                                                                                                    |                        |
| 69  | 08/05/2004    | MEMORANDUM OF LAW FILED IN SUPPORT OF MOTION FOR POSTCONVICTION RELIEF FILED PRO SE<br>REFERRED TO JUDGE TOLIVER.                                                                                                                                                                                                                                                                                                                                                  |                        |
| 70  | 08/27/2004    | ORDER: PETITION FOR APPOINTMENT OF COUNSEL FOR POSTCONVICTION RELIEF. IS DENIED. SEE FILE.                                                                                                                                                                                                                                                                                                                                                                         | TOLIVER CHARLES H. IV  |
| 72  | 09/07/2004    | EMAIL FILED TO: JUDGE TOLIVER<br>I SPOKE WITH YOUR LAW CLERK LAST WEEK REGARDING NEEDING A LITTLE EXTRA TIME TO COMPLETE THE STATE'S RULE 61 RESPONSE IN THE ABOVE CASE AND SHE STATED SHE WOULD NOTE THE FILE. I HAVE BEEN OUT OF THE OFFICE DUE TO MY VACATION AND MY DAUGHTER NEEDING MUCH DENTAL WORK AND HAVE HAD LITTLE TIME TO COMPLETE THE RULE 61. MAY I HAVE UNTIL NEXT WEEK TO COMPLETE THIS RULE 61?<br>RESPONSE FROM JUDGE TOLIVER BY E-MAIL.<br>YES. | FROM: MARIA KNOLL, DAG |
| 71  | 09/14/2004    | STATE'S RESPONSE TO DEFENDANT'S MOTION FOR POST CONVICTION RELIEF. REFERRED TO JUDGE TOLIVER<br>FILED BY MARIA KNOLL, ESQ & MARSHA WHITE, ESQ                                                                                                                                                                                                                                                                                                                      |                        |
| 75  | 09/14/2004    | DEFENDANT'S LETTER FILED. REQUESTING COURT DOCKET.                                                                                                                                                                                                                                                                                                                                                                                                                 |                        |
| 73  | 10/19/2004    | DEFENDANT'S RESPONSE TO STATE'S ANSWER IN POST-CONVICTION RELIEF.                                                                                                                                                                                                                                                                                                                                                                                                  |                        |

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( as of 05/10/2007 )

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State of Delaware v. STEVEN W KRAFCHICK  
 State's Atty: MARIA T KNOLL , Esq.  
 Defense Atty: EDWARD C PANKOWSKI , Esq.

AKA:

DOB: 01/06/1965

| No. | Event<br>Date | Event                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Judge                                      |
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|     |               | PRO SE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                            |
|     |               | REFERRED TO JUDGE TOLILVER.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                            |
| 74  | 11/15/2004    | AMENDMENT TO RESPONSE TO STATE'S ANSWER IN POST CONVICTION RELIEF.<br>FILED PRO SE<br>REFERRED TO JUDGE TOLIVER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                            |
| 76  | 02/25/2005    | DEFENDANT'S LETTER FILED.<br>LETTER REQUESTING UPDATE ON POST-CONVICTION MOTION.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                            |
| 77  | 03/08/2005    | OPINION AND ORDER ON THE DEFENDANT'S MOTION FOR POST-CONVICTION RELIEF<br>DENIED.<br>IT IS SO ORDERED.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | TOLIVER CHARLES H. IV                      |
| 78  | 04/06/2005    | DOCUMENT(S) FILED REGARDING SUPREME COURT APPEAL.<br>RE: STATEMENT PURSUANT TO RULE 9 (E)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                            |
| 79  | 04/14/2005    | LETTER FROM SUPREME COURT TO SHARON AGNEW, PROTHONOTARY<br>RE: A NOTICE OF APPEAL WAS FILED IN SUPREME COURT APRIL 1, 2005.<br>THE RECORD IS DUE APRIL 25, 2005.<br>124, 2005                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                            |
|     | 04/19/2005    | RECORDS SENT TO SUPREME COURT.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                            |
| 80  | 04/25/2005    | RECEIPT FROM SUPREME COURT ACKNOWLEDGING RECORD.<br>124, 2005                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                            |
| 83  | 08/29/2005    | MOTION TO COMPEL FILED PRO SE. REFERRED TO JUDGE GEBELEIN.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                            |
| 81  | 11/14/2005    | ORDER: PLEASE BE ADVISED THAT I HAVE NOW HAD THE OPPORTUNITY TO REVIEW<br>YOUR "MOTION TO COMPEL", WHICH YOU ALSO REFER TO AS A "MOTION FOR<br>COMPLIANCE", DATED AUGUST 24, 2005, WHICH WAS RECEIVED BY THE<br>PROTHONOTARY ON AUGUST 29. THAT WHICH FOLLOWS IS MY RESPONSE. I DO<br>NOT BELIEVE THERE IS ANY AUTHORITY, NOR DO YOU REFER TO ANY, WHICH<br>ALLOWS YOU TO FILE SUCH A MOTION. HOWEVER, BY COPY OF THIS LETTER AND<br>YOUR MOTION, I AM ASKING THAT THE DEPARTMENT OF CORRECTION, THROUGH<br>MR. HOSTERMAN, PROVIDE YOU WITH ANY AND ALL APPROPRIATE MEDICAL<br>TREATMENT, INCLUDING A MENTEL HEALTH EVALUATION AND/OR COUNSELING. I<br>BELIEVE THAT SHOULD ADDRESS YOUR CONCERNS. HOWEVER, YOUR MOTION IS<br>OTHERWISE DENIED. IT IS SO ORDERED | TOLIVER CHARLES H. IV                      |
| 82  | 11/14/2005    | LETTER FROM: JUDGE TOLIVER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | TOLIVER CHARLES H. IV<br>TO: MR. HOSTERMAN |

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State of Delaware v. STEVEN W KRAFCHICK  
State's Atty: MARIA T KNOLL , Esq.  
Defense Atty: EDWARD C PANKOWSKI , Esq.

DOB: 01/06/1965

AKA:

| No. | Event<br>Date | Event                                                                                                                                                                                                                                                                                                        | Judge                 |
|-----|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
|     |               | ENCLOSED YOU WILL FIND A COPY OF MY RESPONSE TO MR. KRAFCHICK'S MOTION DATED AUGUST 24, 2005. A COPY OF THAT MOTION IS ALSO ENCLOSED. IF THERE IS ANYTHING ELSE I NEED TO DO TO ASSIST IN THE PROCESS OF OBTAINING AN EVALUATION AND/OR TREATMENT FOR MR. KRAFCHICK, PLEASE DO NOT HESITATE TO SO INFORM ME. |                       |
| 84  | 02/03/2006    | MANDATE FILED FROM SUPREME COURT: SUPERIOR COURT JUDGMENT AFFIRMED.<br>SUPREME COURT CASE NO: 124, 2005<br>SUBMITTED: NOVEMBER 4, 2005<br>DECIDED: JANUARY 17, 2006<br>BEFORE STEELE, CHIEF JUSTICE, BERGER AND JACOBS, JUSTICES.                                                                            |                       |
| 85  | 03/22/2006    | MOTION FOR POSTCONVICTION RELIEF FILED. PRO SE<br>REFERRED TO JUDGE TOLIVER                                                                                                                                                                                                                                  |                       |
| 86  | 03/24/2006    | LETTER FROM A. HAIRSTON PROTH. OFFICE TO MARIA KNOLL, ESQ<br>RE: NOTICE OF FILING OF PRO SE MOTION FOR POSTCONVICTION RELIEF.<br>ATTACHED: COPY OF MOTION.                                                                                                                                                   |                       |
| 87  | 04/26/2006    | LETTER FROM JUDGE TOLIVER TO MARIA KNOLL, DAG. RE: RULE 61<br>RE: BY NOW YOU HAVE RECEIVED A COPY OF THE PETITION FOR POSTCONVICTION RELIEF THAT WAS FILED BY KRAFCHICK IN CONNECTION WITH THE ABOVE-REFERENCED MATTER. PLEASE PROVIDE ME WITH THE STATE'S RESPONSE ON OR BEFORE MAY 19, 2006                | TOLIVER CHARLES H. IV |
| 88  | 06/05/2006    | STATE'S RESPONSE TO DEFENDANT'S MOTION FOR POST-CONVICTION RELIEF PURSUANT TO SUPERIOR COURT CRIMINAL RULE 61.<br>FILED BY MARIA KNOWLL, DAG<br>REFERRED TO JUDGE TOLIVER                                                                                                                                    |                       |
| 89  | 07/10/2006    | DEFENDANT'S REPLY TO STATE'S RESPONSE TO DEFENDANT'S MOTION FOR POST-CONVICTION RELIEF PURSUANT TO SUPERIOR COURT CRIMINAL RULE 61(F)(3)<br>PRO SE<br>REFERRED TO JUDGE TOLIVER.                                                                                                                             |                       |
| 90  | 09/20/2006    | LETTER/ORDER ISSUED BY JUDGE TOLIVER. RE: RULE 61 IS DENIED.<br>IT IS SO ORDERED.                                                                                                                                                                                                                            | TOLIVER CHARLES H. IV |
| 91  | 10/12/2006    | NOTICE OF APPEAL FILED IN SUPREME COURT (COPY)                                                                                                                                                                                                                                                               |                       |
| 92  | 10/17/2006    | LETTER FROM SUPREME COURT TO SHARON AGNEW, PROTHONOTARY<br>RE: A NOTICE OF APPEAL WAS FILED ON 10/12/06                                                                                                                                                                                                      |                       |

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State of Delaware v. STEVEN W KRAFCHICK  
State's Atty: MARIA T KNOLL , Esq.  
Defense Atty: EDWARD C PANKOWSKI , Esq.

DOB: 01/06/1965

AKA:

| No. | Event<br>Date | Event | Judge |
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THE RECORD MUST BE FILED 11/06/06.

555, 2006

10/19/2006

RECORDS SENT TO SUPREME COURT.

93 10/25/2006

RECEIPT FROM SUPREME COURT ACKNOWLEDGING RECORD.

555, 2006

\*\*\* END OF DOCKET LISTING AS OF 05/10/2007 \*\*\*  
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